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**From:** Hassell, Emily [hassell.emily@epa.gov]  
**Sent:** 2/15/2018 8:11:12 PM  
**To:** AO OPA OMR CLIPS [AO\_OPA\_OMR\_CLIPS@epa.gov]  
**Subject:** News Clips - 15 February 2018

*(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)*

#### **Administrator Pruitt's Travel**

[USAToday - EPA chief must fly first class due to 'toxic environment politically'](#)

[AP - EPA chief says he flies first class due to security concerns](#)

[Washington Post - The Energy 202: Pruitt says flying first-class is safer. But some airline safety experts aren't so sure.](#)

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#### **General**

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[E&E Climatewire - Pruitt makes surprise stops at ... clean energy plants](#)

[The Hill - EPA penalties for polluters cut in half under Trump, study finds](#)

[Bloomberg - EPA Collecting Half the Penalties Under Trump as Predecessors](#)

[Politico - Green group says EPA enforcement plummeted in Trump's first year](#)

[E&E Energywire - Enforcement is lagging under Pruitt, green group says](#)

[The Hill - Time to rethink the Renewable Fuel Standard](#)

[New York Times - How \\$225,000 Can Help Secure a Pollution Loophole at Trump's E.P.A.](#)

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[E&E Greenwire - 'Everybody will feel' Trump cuts, Alaska chief says](#)

[E&E Daily - Democrats revive bill to ban 4 chemicals](#)

[E&E Greenwire - Group keeps threatened CRA challenge on sideline](#)

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## **USAToday**

<https://www.usatoday.com/story/news/nation/2018/02/14/epa-chief-must-fly-first-class-due-toxic-environment-politically/337939002/>

### **EPA chief must fly first class due to 'toxic environment politically'**

By John Bacon, 2/14/18, 3:14 PM

EPA chief Scott Pruitt defended flying first class on the government tab by saying the "toxic environment politically" has led to uncomfortable interactions with travelers and security concerns.

Pruitt's explanation came just days after The Washington Post published an analysis of Pruitt's expenses revealing exorbitant travel costs — including one flight on a military plane costing more than \$35,000.

Pruitt told the Manchester Union Leader he flew first class from Washington to Boston en route to New Hampshire to meet with GOP Gov. Chris Sununu and tour a toxic waste Superfund site Tuesday. But he said such travel decisions are made by his security detail.

"We've had some incidents on travel dating back to when I first started serving in the March-April timeframe," Pruitt told the paper. "We live in a very toxic environment politically, particularly around issues of the environment."

Pruitt cited a lack of "civility" and said "the level of protection is determined by the level of threat."

Pruitt was not required to submit a request for the travel upgrade to White House Chief of Staff John Kelly, despite a new policy enacted last year in the wake of a travel scandal involving Health Secretary Tom Price's use of charter aircraft. Commercial air travel is exempt from that policy, White House press secretary Sarah Huckabee Sanders said.

"That wasn't approved by the White House," she said of Pruitt's travel.

The costs come as hard financial times appear poised to befall the agency. President Trump's proposed budget calls for a cut of more than 20% in EPA spending.

The Post, citing information obtained through the Freedom of Information Act, cited one stretch in early June when taxpayer-funded travel for Pruitt and his top aides cost at least \$90,000. The figure does not include costs for his security detail.

The EPA says Pruitt's expenses have been approved by federal ethics officials.

Last week, Pruitt sparked controversy by asserting that global warming might be beneficial because "humans have most flourished" during warming trends. That drew fire from climate-change experts.

Michael Mann, a professor of atmospheric sciences at Penn State, called Pruitt's remark an example of the "stages of denial."

"As the evidence becomes ever more compelling that climate change is real and human caused, the forces of denial turn to other specious argument, like 'it will be good for us,'" Mann said.

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## AP

<https://apnews.com/55f6e87574fe4c46a2a667b7e560ea75/EPA-chief-says-he-flies-first-class-due-to-security-concerns>

### **EPA chief says he flies first class due to security concerns**

By Michael Biesecker, 2/14/18

WASHINGTON (AP) — The head of the Environmental Protection Agency has broken months of silence about his frequent premium-class flights at taxpayer expense, saying he needs to fly first class because of unpleasant interactions with other travelers.

EPA Administrator Scott Pruitt spoke about his flight costs on Tuesday in a pair of interviews in New Hampshire, following a first-class flight to meet with the state's Republican governor and tour a toxic waste site.

Pruitt told the New Hampshire Union Leader he had some "incidents" on flights shortly after his appointment by President Donald Trump last year.

"We live in a very toxic environment politically, particularly around issues of the environment," said Pruitt, who confirmed to the newspaper that he had flown first class from Washington to Boston before continuing on to New

Hampshire. "We've reached the point where there's not much civility in the marketplace and it's created, you know, it's created some issues and the (security) detail, the level of protection is determined by the level of threat."

Pruitt is the first EPA administrator to have a 24-hour security detail that accompanies him at all times, even at the agency's headquarters in Washington. He has also taken other security precautions, including the addition of a \$25,000 soundproof "privacy booth" to prevent eavesdropping on his phone calls and spending \$3,000 to have his office swept for hidden listening devices.

Pruitt said he was not involved in the decision for him to fly first class.

"There have been instances, unfortunately, during my time as administrator, as I've flown and spent time, of interaction that's not been the best," Pruitt told WMUR TV in Manchester, New Hampshire. "And, so, ingress and egress off the plane ... that's all decisions all made by our (security) detail team, by the chief of staff, by the administration. I don't make any of those decisions. They place me on the plane where they think is best from a safety perspective."

Pruitt was asked about the issue following a Washington Post report on Sunday that detailed some of his travel expenses, including a \$1,641.43 first-class seat for a short flight in June from Washington to New York City. Pruitt's ticket cost six times what EPA paid for his aides seated in coach.

The Associated Press reported in July and again in December that spending on commercial airline tickets purchased for Pruitt indicated he was flying in premium-class seats. EPA's press office has repeatedly refused to comment on whether Pruitt was flying first class.

Federal regulations allow government travelers to fly business class or first class when no cheaper options are "reasonably available" or if there are exceptional security circumstances. However, past federal audits have found that those rules have been routinely violated by high-ranking government officials under both Republican and Democratic administrations.

The use of luxury air travel by members of Trump's Cabinet has been under scrutiny for months, after the resignation of Health and Human Services Secretary Tom Price in September following media reports he spent at least \$400,000 in taxpayer funds on private jets for himself and his staff.

A report released Wednesday by the inspector general at the Department of Veterans Affairs found that Secretary David Shulkin and his staff made "false representations" to justify his wife accompanying him at taxpayer expense on an 11-day European trip that mixed business and sightseeing.

Records show Pruitt has taken at least four flights on non-commercial aircraft, costing more than \$58,000. EPA has said all of those flights were necessary and pre-approved by ethics lawyers.

EPA spokesman Jahan Wilcox did not immediately respond Wednesday to questions about whether Pruitt had been granted similar waivers allowing him to fly premium class or about the past security incidents to which Pruitt referred.

Asked about Pruitt's high-dollar tickets on Wednesday, Trump spokeswoman Sarah Huckabee Sanders said the White House had not pre-approved the EPA chief's travel on commercial aircraft. She declined to comment further.

Pruitt's frequent government-funded travel, which records show has often included weekend layovers in his home state of Oklahoma, is currently under review by EPA's internal watchdog. The office of EPA Inspector General Arthur Elkins said Wednesday it expects to release the results of its investigation by summer.

Meanwhile, the White House's budget proposal for EPA released earlier this week seeks to cut \$3.7 million, or 9 percent, in funding for Elkins' office. His spokeswoman, Jennifer Kaplan, said that would impair the ability of the inspector general to perform investigations like the one into Pruitt's spending.

“Without sufficient resources, we would not be able to take on many discretionary audits and investigations that the OIG believes yield considerable value and return on investment,” Kaplan said.

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### **Washington Post**

[https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2018/02/15/the-energy-202-pruitt-says-flying-first-class-is-safer-but-airline-safety-experts-aren-t-so-sure/5a849de230fb041c3c7d78cd/?utm\\_term=.c89b95759344](https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2018/02/15/the-energy-202-pruitt-says-flying-first-class-is-safer-but-airline-safety-experts-aren-t-so-sure/5a849de230fb041c3c7d78cd/?utm_term=.c89b95759344)

### **The Energy 202: Pruitt says flying first-class is safer. But some airline safety experts aren't so sure.**

By Dino Grandoni, 2/15/18, 9:46 AM

The Environmental Protection Agency says that Scott Pruitt has traveled first-class on flights both domestically and internationally over the last year because it is simply safer for him.

But neither representatives for the EPA nor Pruitt himself in newspaper and television interviews this week have fully disclosed the nature of the threats against him. The EPA is also refusing to release the written waiver that allows Pruitt to fly regularly in first or business class. On Wednesday afternoon, the agency backed away from its earlier statements about a single waiver, saying it actually submits the same security-related waiver for each trip Pruitt takes.

The agency also has not spelled out the logic behind its rationale for the flights: Why does the EPA think first-class travel is safer than sitting in coach in the first place?

Airline safety and security experts were left struggling to explain the EPA's rationale without a full explanation from the agency. One pilot was outright incredulous.

Chesley “Sully” Sullenberger III, the retired pilot who once landed a damaged Airbus A320 in the Hudson River and who is now an aviation and safety expert at CBS News, had just this to say by email: “First class is not safer than economy.”

There is no reason to believe that sitting at the front of a plane is safer than sitting toward the back should the plane crash, said another aviation expert.

“I cannot think of anything” that would make sitting upfront safer, said Harro Ranter, chief executive of the Aviation Safety Network. “In an actual accident, best chances of survival are usually in the rear.”

Security experts said there are a range of reasons why Pruitt and his staff might think paying for first-class is worth it when it comes to the administrator's safety. And some supported the idea that senior government officials might be better off paying for more expensive tickets.

Being seated up front helps “facilitate ease of entry and exit” for a government official, said Martin Rottler, an airline operations expert at the Center for Aviation Studies at Ohio State University. And “with the business-class cabin,” he added, “you're dealing with a smaller number of people.”

That argument suggests that sitting in first class means the official needs to interact with fewer passengers. As anyone who follows the news knows, there have been plenty of examples of unruly passengers clashing with flight crews and even one incident where Ivanka Trump was confronted by an angry passenger on JetBlue.

Indeed, Pruitt alluded to those concerns in an interview after The Post revealed his pricey travel habits with WMUR-TV in Manchester, N.H. “There have been instances, unfortunately, during my time as administrator, as I’ve flown and spent time, of interaction that’s not been the best,” Pruitt said, according to the Associated Press. “And, so, ingress and egress off the plane ... that’s all decisions all made by our (security) detail team, by the chief of staff, by the administration.”

But a few unpleasant interactions with fellow passengers isn't enough of a reason for taxpayers to pay a higher price for Cabinet officials' flights, congressional Democrats and even some Republicans said Wednesday.

"I would be embarrassed to get on a plane, sit down in first class and have my constituents pass me by and see me," Sen. John Kennedy (R-La.) told Politico. Sen. Deb Fischer (R-Neb.) told the publication coach "would be sufficient" for Pruitt, adding "I'm always hauling my bags onto the plane every weekend."

The EPA's inspector general has investigated some of the threats made against Pruitt, including "a threatening post" on Twitter from an Arkansas resident and an "obscene postcard" from someone from Ohio, according to E&E News.

House Democrats demanded that the inspector general investigate the waivers for Pruitt's first-class travel, too:

Energy Commerce Dems

✓

@EnergyCommerce

RM's @FrankPallone, @RepDianaDeGette and @RepPaulTonko: "It is unclear how, in each of these instances, more costly domestic travel, or where one is seated on an aircraft, provides additional security as compared to more economical options." [https://democrats-energycommerce.house.gov/newsroom/press-releases/ec-democrats-expect-epa-s-ig-review-to-include-pruitt-s-blanket-waiver-for ...](https://democrats-energycommerce.house.gov/newsroom/press-releases/ec-democrats-expect-epa-s-ig-review-to-include-pruitt-s-blanket-waiver-for-...)

3:20 PM - Feb 14, 2018

Gina McCarthy, Pruitt's predecessor as EPA administrator, confirmed to The Energy 202 through a spokeswoman Wednesday that she did not receive waivers for top-of-the-line travel, despite, like Pruitt, making controversial decisions.

Chris Lu, who as President Obama's White House Cabinet secretary served as the main liaison between the president and Cabinet heads, was unimpressed with the administration's rationale for Pruitt's travel.

"Pruitt's explanation is absurd and assumes that it's easier to protect someone in first class than in economy," Lu told my colleagues Brady Dennis and Juliet Eilperin. "Members of Congress who routinely fly coach should be offended by his lavish travel habits."

There's one more reason a Cabinet official may be allowed to buy premium seats. Government policy allows such purchases for flights of 14 hours or more so that high-level officials are fresh for meetings right after landing.

"I wouldn't be personally obsessed with that," Eric Schaeffer, executive director of the Environmental Integrity Project, said of international flights. His group sought information about Pruitt's travel through Freedom of Information Act requests.

"But first class to La Guardia? Really?" he added, referring to a \$1,641.43 ticket the EPA purchased for Pruitt to fly from the District to New York last June.

"It's 35 minutes."

<https://www.politicopro.com/energy/whiteboard/2018/02/epa-inspector-general-wont-further-expand-pruitt-travel-probe-622607>

## **EPA inspector general won't further expand Pruitt travel probe**

By Anthony Adragna, 2/14/18, 1:10 PM

EPA's inspector general will not further expand its ongoing probe into Administrator Scott Pruitt's travels beyond activities in 2017, it said in a letter obtained by POLITICO, citing staffing, funding and time "constraints."

"I have determined that, after this modification, we will not further expand or extend the scope of our review," Inspector General Arthur Elkins wrote to House Energy and Commerce ranking member Frank Pallone in the Jan. 10 letter where he agreed to examine all of Pruitt's 2017 travels.

The inspector general asked the Trump administration for additional funding in its fiscal 2019 budget request back in September, but the budget request would actually slash the watchdog's budget by nearly \$4 million to \$37.5 million. There are several open probes into Pruitt and his activities while in office.

WHAT'S NEXT: EPA's inspector general will not further expand its probe into Pruitt's travels.

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## **E&E Greenwire**

<https://www.eenews.net/greenwire/stories/1060074023/search?keyword=EPA>

## **IG won't expand audit of Pruitt's travel again**

By Kevin Bogardus, 2/15/18

The U.S. EPA inspector general will not expand upon its audit of Administrator Scott Pruitt's travel.

EPA IG Arthur Elkins said in a letter obtained by E&E News that the agency's internal watchdog has decided it will not further widen its probe, which began last year, into Pruitt's trips.

"I have determined that, after this modification, we will not further expand or extend the scope of our review," Elkins said in the Jan. 10 letter to Rep. Frank Pallone (D-N.J.), ranking member on the House Energy and Commerce Committee.

The "modification" Elkins was referring to was the IG deciding to expand the audit's scope through the end of 2017, which the IG announced last month (E&E News PM, Jan. 10). Elkins' letter was in response to a Dec. 19, 2017, letter from Pallone asking the EPA watchdog to look at all of Pruitt's travel in the 2017 calendar year.

EPA IG spokesman Jeff Lagda noted to E&E News that the IG has expanded the audit's scope twice during the past year — first to say it would review Pruitt's trips up to Sept. 30, and then later to extend that closing date through the end of 2017.

"In order to complete the audit in a timely manner, the OIG can no longer expand the scope of the audit that was recently expanded to review the Administrator's travel through Dec. 31, 2017," Lagda said.

The letter predates recent reports this week on Pruitt's use of first-class travel. Pallone and other Democrats yesterday asked the EPA IG to look at any waivers Pruitt received to take the pricier flights (E&E News PM, Feb. 14).

Budget woes have been an issue for the EPA IG lately. In his letter to Pallone, Elkins noted his office's sparse funds and how it has constrained the IG's operations.

"Beyond that threshold question, we have to determine whether we have sufficient resources — people, time and funds — to do a project in a timely fashion, and whether it would preclude our doing other crucial work," Elkins said. "All of this means that for every discretionary review that the OIG decides to undertake, there will be others we cannot."

The IG had pushed for a \$62 million budget plan in fiscal 2019. But under President Trump's budget proposal for the next fiscal year released earlier this week, the IG is slated to receive \$37.48 million. Elkins had earlier sent memos to the Office of Management and Budget saying the funds being proposed for the IG were inadequate (Greenwire, Feb. 13).

The administrator's travel has been under scrutiny over his first year at EPA. Pruitt's frequent trips back to Oklahoma and his use of private and military planes as well as taking several first-class flights have been criticized by lawmakers and environmental groups.

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### **The Hill**

<http://thehill.com/policy/energy-environment/373996-epa-retracts-claim-that-pruitt-has-blanket-waiver-to-fly-first>  
**EPA backtracks on claim that Pruitt has 'blanket waiver' to fly first-class whenever he wants**

By Julia Manchester, 2/15/18, 9:59 AM

The Environmental Protection Agency retracted its claim on Wednesday that Administrator Scott Pruitt has a "blanket waiver" to fly first class on flights whenever he wants.

The EPA originally said that Pruitt had obtained a waiver to federal standards that limit officials' ability to book first-class flights on taxpayer funds.

"As such, for every trip Administrator Pruitt submits a waiver to fly in either first or business class," an EPA spokesman said on Wednesday.

But the spokesman originally said on Tuesday that Pruitt had been granted more leeway in flying business class or first class — an exception that doesn't exist in federal rules.

The agency changed the statement after garnering criticism from lawmakers from both parties.

CBS News reported earlier this week that Pruitt took a high-end Emirates business class seat in June 2017 on a flight back from Italy, obtaining a waiver to rules that require official travel to be on United States-flagged airlines.

He flew first class again Tuesday to Boston. He told the New Hampshire Union Leader that his security detail dictated his travel choices, and he did not have a role in the decision making process.

"We live in a very toxic environment politically, particularly around issues of the environment," Pruitt told the newspaper.

"We've reached the point where there's not much civility in the marketplace and it's created, you know, it's created some issues and the [security] detail, the level of protection is determined by the level of threat."

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### **Politico**

<https://www.politico.com/story/2018/02/14/scott-pruitt-first-class-travel-347631>



## EPA changes its story on Pruitt's first-class travel

By Eric Wolff, Emily Holden, and Alex Guillen, 2/14/18, 6:12 PM

The EPA spokesman said anyone seeking additional details about Pruitt's travels would have to formally request them under FOIA.

EPA on Wednesday retracted its claim that Administrator Scott Pruitt has received a "blanket waiver" to fly first class whenever he travels, after POLITICO pointed officials to federal travel rules that appeared to bar such arrangements.

Pruitt has been routinely flying first class at taxpayers' expense after securing what EPA spokesman Jahan Wilcox had described as "blanket waiver," POLITICO reported Tuesday. But the General Services Administration says federal rules require agencies' oversight staffers to sign off on officials' first- or business-class travel "on a trip-by-trip basis ... unless the traveler has an up-to-date documented disability or special need."

Wilcox changed his explanation after POLITICO pointed out that section of the regulations. GSA does allow first-class travel for security reasons, but only if agencies request a waiver for each trip.

"As such, for every trip Administrator Pruitt submits a waiver to fly in either first or business class," Wilcox said, amending the agency's earlier statement, which yielded criticism from Republican lawmakers and led Democrats to request an inspector general investigation.

A GSA spokesperson confirmed its ban on blanket waivers to POLITICO Wednesday but would not discuss Pruitt's specific circumstances.

The EPA spokesman said anyone seeking additional details about Pruitt's travels would have to formally request them under the Freedom of Information Act, a process that can take months or years. In fact, the agency has not yet responded to POLITICO's June request information about travel authorizations.

Two House Democrats asked an agency watchdog earlier Wednesday to review EPA's "blanket waiver" policy.

The questions add to growing scrutiny over the high-flying travel expenses of President Donald Trump's Cabinet, five months after former HHS Secretary Tom Price stepped down following POLITICO's reporting on his use of more than \$1 million in taxpayers' money for trips on private jets and government planes.

Pruitt and his staff say he can't fly coach because of security concerns. He regularly purchases first-class tickets on trips as short as D.C. to Boston and on long-haul flights to the Middle East.

But Norm Eisen, the former top ethics lawyer for the Obama administration and a critic of Trump, said Pruitt should not be allowed to routinely ignore regulations that are meant to ensure government officials do not waste taxpayer dollars.

"It's nonsense, whereas no such thing as providing a blanket waiver of that kind. It's contrary to all ethics practices," Eisen said. "If you're going to use the people's money in this way, there needs to be an individual waiver each time."

Information about Pruitt's travel expenses has come out only in response to specific public records requests, including one that a court ordered EPA to respond to in mid-January from a watchdog group called the Environmental Integrity Project. It's not possible to tally how much Pruitt has spent on first-class trips in total, but The Washington Post reported over the weekend that in early June, Pruitt and other EPA staff racked up more than \$90,000 in travel bills.

Records also show Pruitt spending \$1,641 for a flight from D.C. to New York City and back — a route that often costs as little as \$250 with a few days' notice.

Pruitt also may have an armed agent flying with him at the first-class price level, but EPA excluded some of the travel records in its disclosure to the environmental group, citing security concerns.

Pruitt's high-priced trips run contrary to the practices of previous administrations, when top EPA officials typically flew coach, and ethics officials allowed first-class trips only in special circumstances. Staffers for President Barack Obama's EPA chief, Gina McCarthy, recall her flying coach to and from Africa and Asia.

Some Republican lawmakers have criticized Pruitt's flights, adding to angst over other Trump officials' travel practices. Besides Price, Interior Secretary Ryan Zinke, Treasury Secretary Steven Mnuchin and Veterans Affairs Secretary David Shulkin have been under scrutiny for their expenses.

Eisen, now chairman of the liberal watchdog group Citizens for Responsibility and Ethics in Washington, said that when he was working in the White House from 2011 to 2014 he only rarely allowed non-coach travel, when State Department officials had to make flights of 14 hours or more. Trips of that length justify first-class tickets, according to federal regulations.

GSA rules clearly prohibit blanket authorizations for commercial flights in virtually all circumstances.

"Blanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis, unless the traveler has an up-to-date documented disability or special need," the Federal Travel Regulation says.

However, agencies can apply waivers to use government aircraft, in certain situations.

Other former federal officials speaking on background said they'd also never heard of a blanket waiver.

An advance staffer for an Obama-era Cabinet member said first class didn't seem to offer security benefits.

"Security [staff], in my experience, doesn't care so much what cabin the principal sits in," the former advance staffer said. "They care much more about where their seat is in the plane."

EPA's Office of Inspector General, which investigates threats against Pruitt, said last fall that he received up to five times as many threats as his immediate predecessor, McCarthy.

It is not clear how many of those threats have been deemed credible; the instances revealed so far have included threatening tweets and a menacing postcard. The internal watchdog did not immediately respond to a request on Wednesday for updated statistics on threats against Pruitt.

A former TSA official noted that everyone who flies, in coach or otherwise, is subject to security screening.

"Everyone in that aircraft went through TSA security screening," the official said. "It's a safe environment like you'd go through the Capitol building on Capitol Hill. Everyone has gone through a metal detector, same as on an aircraft."

Other security experts told POLITICO that there are genuine protective advantages to traveling in first class.

Airlines will often work with high-profile travelers to board them separately from the general public. Flying first class also grants access to secured lounge areas, and first-class passengers disembark first. And while in the air, the first-class area is more tightly controlled than coach.

"You want to minimize as much potential problems as you can," said Joe Funk of TorchStone Global, a private security firm. Funk spent 21 years in the Secret Service and more recently provided security for presidential candidates Obama, Mitt Romney and Jeb Bush.

"If you reduce the exposure of your protectee, your VIP, from the entire airport audience to a smaller group that is in the lounges, you've eliminated or minimized" threats, he added.

While flying first class could allow Pruitt access to special lounges where there are fewer passengers waiting for a plane, former federal agency staffers say VIPs are often offered that option even with just a coach ticket. Some airports ask high-level officials to disembark directly to their vehicles rather than walking through the terminal, a former EPA staffer said. And armed guards and the people they are protecting typically board planes first, former government employees familiar with the process said.

"As much as you can keep your principal away from other people," you should, said John Sexton of Sexton Executive Security in Fairfax, Va.

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## **The Hill**

<http://thehill.com/policy/energy-environment/373880-house-dems-want-watchdog-to-probe-pruitts-first-class-flying>  
**House Dems want watchdog to probe Pruitt's first-class flying**

By Timothy Cama, 2/14/18, 3:38 PM

Leading House Democrats want the Environmental Protection Agency's (EPA) internal watchdog to look into EPA head Scott Pruitt's premium-class flights on the taxpayer's dime.

Rep. Frank Pallone Jr. (N.J.), the Energy and Commerce Committee's top Democrat, wrote to EPA Inspector General Arthur Elkins about the matter Wednesday.

Elkins is already investigating all of Pruitt's official travel through 2017. But Pallone and two other top Democrats on the panel want to ensure that Elkins is probing recent revelations that Pruitt has flown first or business class repeatedly, and he has a "blanket exemption" to rules limiting premium-class flights by federal employees.

"Administrator Pruitt's many first-class flights around the country at taxpayers' expense raise renewed concerns of secrecy and waste at the Trump EPA," Pallone wrote along with Reps. Diana DeGette (Colo.) and Paul Tonko (N.Y.).

"In light of these recent reports, we would expect your ongoing review would determine whether Administrator Pruitt's 'blanket waiver' for premium-class travel is in compliance with all applicable regulations, policies and procedures," they wrote.

The Washington Post reported Sunday that Pruitt has spent thousands of dollars on premium-class flights. The EPA later said Pruitt has a "blanket exemption" to restrictions that usually preclude such flights on the taxpayers' dime.

Pruitt said the first-class flights are necessary for security reasons, and he isn't involved in making the decisions.

"There have been instances, unfortunately, during my time as administrator, as I've flown ... of interaction that's not been the best," he told New Hampshire TV station WMUR on Tuesday.

"We live in a very toxic environment politically, particularly around issues of the environment," Pruitt told the New Hampshire Union Leader. "We've reached the point where there's not much civility in the marketplace and it's created, you know, it's created some issues and the [security] detail, the level of protection is determined by the level of threat."

Elkins's office launched its probe into Pruitt's travel last year at the behest of the same Democratic lawmakers, after EPA records showed that he frequently traveled to his home state of Oklahoma for official engagements and stayed there for weekends.

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## **Washington Examiner**

<http://www.washingtonexaminer.com/democrats-ask-epa-watchdog-to-investigate-scott-pruitts-blanket-waiver-for-first-class-flights/article/2649121>

### **Democrats ask EPA watchdog to investigate Scott Pruitt's 'blanket waiver' for first-class flights**

By Josh Siegel, 2/14/18, 4:14 PM

Democrats on Wednesday asked the Environmental Protection Agency's inspector general to investigate how Administrator Scott Pruitt has obtained a "blanket waiver" to fly first class.

The EPA on Tuesday said Pruitt is pre-approved to fly first-class whenever he wants because of security concerns.

"Due to security reasons, he has a blanket waiver to buy business or first class," spokesman Jahan Wilcox said.

Rep. Frank Pallone of New Jersey, the top Democrat on the House Energy and Commerce Committee, and other committee Democrats, are urging the EPA's inspector general to expand an existing probe of Pruitt's travel habits to include the circumstances behind the waiver.

The investigation currently covers Pruitt's frequent travel to and from his home state of Oklahoma and his use of private and government planes.

"Administrator Pruitt's many first-class flights around the country at taxpayers' expense raise renewed concerns of secrecy and waste at the Trump EPA," the lawmakers wrote in a letter Wednesday to the inspector general. "In light of these recent reports, we would expect your ongoing review would determine whether Administrator Pruitt's 'blanket waiver' for premium-class travel is in compliance with all applicable regulations, policies and procedures."

Pruitt said Tuesday that security-related decisions made by others is prompting him to frequently fly first class or take military flights at taxpayer expense.

"I'm not involved in any of those decisions," Pruitt said during an interview with the New Hampshire Union Leader. "Those are all made by the [security] detail, the security assessment in addition to the chief of staff."

"Unfortunately, we've had some incidents on travel dating back to when I first started serving in the March-April timeframe," Pruitt said. "We live in a very toxic environment politically, particularly around issues of the environment," he said.

Democratic lawmakers want to know if EPA political appointees or career staff were involved in the approval of the waiver. They also want to understand how the EPA determined that flying coach is a security risk and whether other EPA political appointees have been granted exceptions.

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## **Politico**

<https://www.politicopro.com/energy/whiteboard/2018/02/house-democrats-press-epa-ig-to-review-pruitts-blanket-waiver-625847>

### **House Democrats press EPA IG to review Pruitt's 'blanket waiver'**

By Alex Guillen, 2/14/18, 3:37 PM

House Democrats today wrote to EPA Inspector General Arthur Elkins, Jr., to urge him to include Administrator Scott Pruitt's "blanket waiver" to travel first class in his ongoing review of Pruitt's travel habits.

"It is unclear how, in each of these instances, costlier domestic travel, or where one is seated on an aircraft, provides additional security as compared to more economical options," wrote Reps. Frank Pallone (D-N.J.), Diana DeGette (D-Colo.) and Paul Tonko (D-N.Y.).

The IG's review of Pruitt's travel has been extended to include all of 2017, including a December trip to Morocco. EPA staff have indicated Pruitt obtained the waiver last year, placing it within the existing probe's scope.

WHAT'S NEXT: The IG has not indicated how long his review of Pruitt's travel will take.

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## **E&E News PM**

<https://www.eenews.net/eenewspm/stories/1060073925/search?keyword=EPA>

### **Dems ask IG to look at Pruitt's 'blanket waiver'**

By Kevin Bogardus, 2/14/18

Democrats on the House Energy and Commerce Committee are pressing U.S. EPA's internal watchdog to examine a waiver given to Administrator Scott Pruitt to fly first class.

In a letter sent today to the EPA watchdog, Reps. Frank Pallone (D-N.J.), Diana DeGette (D-Colo.) and Paul Tonko (D-N.Y.) raised concerns over recent reports that Pruitt has flown several times in business and first class.

EPA officials have said the administrator doesn't fly coach because of security concerns. An agency spokesman told E&E News that Pruitt has been given a "blanket waiver" to take the pricier flights (E&E Daily, Feb. 14).

Pallone is ranking member on the Energy and Commerce panel, where DeGette and Tonko also serve.

"Administrator Pruitt's many first-class flights around the country at taxpayers' expense raise renewed concerns of secrecy and waste at the Trump EPA," said the letter to IG Arthur Elkins.

"In light of these recent reports, we would expect your ongoing review would determine whether Administrator Pruitt's 'blanket waiver' for premium-class travel is in compliance with all applicable regulations, policies and procedures."

The lawmakers also asked several questions of the IG, including how Pruitt flying first class increases security for the administrator.

"How does EPA's purchase of premium-class airfare provide enhanced security as compared to economy-class airfare? Is first-class safer than business-class? Is business-class safer than economy or coach?" asked the lawmakers.

EPA IG spokesman Jeff Lagda confirmed the office has received the Democrats' letter. "We have received it, and we will be reviewing it shortly," Lagda told E&E News.

The EPA IG already has an open audit of Pruitt's travel. The agency watchdog has expanded the scope of that probe twice, most recently in order to examine all of Pruitt's trips through the end of 2017, which have attracted scrutiny from lawmakers and environmental groups (E&E News PM, Jan. 10).

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## **Politico**

<https://www.politicopro.com/energy/whiteboard/2018/02/senate-democrats-press-epa-gsa-on-pruitt-travel-632967>

## Senate Democrats press EPA, GSA on Pruitt travel

By Alex Guillen, 2/15/18, 12:02 PM

Two Senate Democrats today wrote to EPA and the General Services Administration seeking details on Administrator Scott Pruitt's travel expenses and federal rules on travel.

The letters follow a report by POLITICO that Pruitt had obtained a "blanket waiver" for security reasons to fly first class at all times, an assertion the agency retracted Wednesday when asked about GSA rules that appear to prohibit such a waiver.

"We are alarmed that taxpayers are funding these considerable expenses, which demonstrate a clear disregard for the executive branch's responsibility to use tax dollars efficiently," wrote Tom Carper of Delaware, ranking member on the Environment and Public Works Committee, and Gary Peters of Michigan, the top Democrat on the Homeland Security Federal Spending Oversight Subcommittee.

Their letter to GSA Administrator Emily Murphy asked for clarification on the blanket waiver rules and other travel guidance. A similar letter to EPA's acting deputy administrator, Mike Flynn, demanded details on EPA's security justifications for the first-class travel, Pruitt's trips, whether staff accompanying Pruitt have traveled in first class and other questions.

WHAT'S NEXT: The lawmakers asked for responses by March 9, although Democrats have complained that the Trump EPA has been slow to respond to their letters in the past year.

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### Politico

<https://www.politico.com/story/2018/02/14/scott-pruitt-travel-347055>

### Some Republicans scoff at Pruitt's travel habits

By Anthony Adragna, 2/14/18, 1:30 PM

A small but growing group of Republican lawmakers have lost patience with EPA Administrator Scott Pruitt's first-class flying habits.

Pruitt's "blanket waiver" to fly in first- or business-class whenever he travels — first reported Tuesday by POLITICO — is rankling some members of Congress who squeeze themselves into coach for flights to and from Washington nearly every weekend. EPA says unspecified security concerns require the luxury accommodations for Pruitt, but the hefty price tag of his taxpayer-funded travel is getting to be too much for some GOP lawmakers.

"I would be embarrassed to get on a plane, sit down in first class and have my constituents pass me by and see me in first class," said Sen. John Kennedy (R-La.). "I just think all Cabinet secretaries and all of us ought to fly coach."

Sen. Deb Fischer (R-Neb.) told POLITICO that a coach-class seat "would be sufficient" for Pruitt.

"I'm always hauling my bags onto the plane every weekend," she said.

The mounting criticism comes as Pruitt took a first-class seat on a flight to Boston Tuesday and after FOIA records showed he spent more than \$1,600 on a flight from Washington to New York in June 2017. And CBS News reported Tuesday the EPA chief spent \$7,000 on an Emirates Airlines return flight from Italy in June.

"Due to security reasons, he has a blanket waiver to buy business- or first-class," EPA spokesman Jahan Wilcox said.

Pruitt says his security detail decides what type of ticket he gets.

"I'm not involved in any of those decisions. Those are all made by the [security] detail, the security assessment in addition to the chief of staff," he told the New Hampshire Union Leader Tuesday.

EPA's inspector general is already reviewing Pruitt's travel history for the entirety of 2017, though it said in a Jan. 10 letter obtained by POLITICO that the office "will not further extend or expand the scope of our review."

Other Republicans urged the administration to ensure proper stewardship of taxpayer funds without directly criticizing Pruitt's travel arrangements.

"Whether we are members of Congress or members of the Cabinet, I think we've got responsibility that when we're traveling on government business that we make sure we're being responsible with those dollars," Senate Energy Chairwoman Lisa Murkowski (R-Alaska) told POLITICO.

And Pruitt's preference for first-class taste was endorsed by at least one lawmaker who said he always flies coach himself.

"We can all second-guess whether he should be in first-class or if he should be in coach, but I can tell if you're actually going to get some work done on a long flight there's a whole lot of people that would agree you're probably going to get more work done if you're not in the middle seat," Sen. Mike Rounds (R-S.D.) told POLITICO.

Sen. Dan Sullivan (R-Alaska) said travel decisions were "all contextual." Asked if \$1,600 for a brief shuttle flight from Washington to New York seemed appropriate, he said "it's all contextual."

Sen. Tom Udall (D-N.M.) said he looked forward to reviewing that report but called into question why Pruitt's security needs seemed so much greater than those of previous EPA chiefs.

"I find it pretty hard to understand how Administrator Pruitt can spend millions of dollars on things for himself, like a soundproof phone booth and luxury travel perks, while slashing the budget for programs that keep the air and water clean for America's kids," Udall said in a statement.

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## **Washington Post**

[https://www.washingtonpost.com/national/health-science/epa-chief-has-unusual-waiver-to-fly-in-first-or-business-class/2018/02/14/9f29a658-11b0-11e8-9570-29c9830535e5\\_story.html?utm\\_term=.f8a06e257af4](https://www.washingtonpost.com/national/health-science/epa-chief-has-unusual-waiver-to-fly-in-first-or-business-class/2018/02/14/9f29a658-11b0-11e8-9570-29c9830535e5_story.html?utm_term=.f8a06e257af4)

### **EPA chief has unusual waiver to fly in first or business class**

By Brady Dennis and Juliet Eilperin, 2/14/18, 6:57 PM

The Environmental Protection Agency is refusing to release the written waiver that allows Administrator Scott Pruitt to fly regularly in first or business class for security reasons — a practice that sets him apart both from his predecessors and other current Cabinet members.

The agency has not spelled out why any threats against Pruitt warranted such a move, and officials would not disclose on Wednesday who approved the waiver or how long it has been in effect, saying reporters would need to file a Freedom of Information Act request for more details.

The EPA this week told reporters that Pruitt had a "blanket waiver" allowing him to bypass coach class whenever possible. Federal regulations, however, say that "blanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis."

On Wednesday afternoon, the agency backed away from its earlier statements, saying it actually submits the same security-related waiver for each trip.

"The [General Services Administration] has a provision for security," EPA spokesman Jahan Wilcox said in a statement. "As such, for every trip Administrator Pruitt submits a waiver to fly in either first or business class."

The latest scrutiny over the expensive and secretive travel habits of the EPA head and his staff comes after The Washington Post detailed this week how Pruitt's trips have cost taxpayers hundreds of thousands of dollars.

His immediate predecessors, as well as Cabinet members from Democratic and Republican administrations, regularly sat in economy when flying commercial, as mandated by federal travel regulations. Agencies are allowed to authorize first-class travel in rare instances, such as a flight of 14 hours or more, a medical disability or when "exceptional security circumstances" mean "use of coach class accommodations would endanger your life or government property."

A handful of Trump administration Cabinet members travel by government plane for security reasons, including the secretaries of the defense, state, homeland security and justice departments. The rest typically fly coach unless they pay for an upgrade themselves or are taking a long-haul flight.

A small number of Cabinet members — including former Commerce secretary Penny Pritzker and current Education Secretary Betsy DeVos — have covered the cost of traveling on their personal planes.

In comments this week during a visit to New Hampshire, Pruitt attributed his numerous first-class, taxpayer-funded flights to his personal security detail and chief of staff, saying he plays no role in deciding such arrangements.

"I'm not involved in any of those decisions," he told the New Hampshire Union Leader. "Those are all made by the [security] detail, the security assessment in addition to the chief of staff."

Asked again about his expenditures in a television interview with WMUR-TV in Manchester, N.H., Pruitt said that during his tenure at the EPA, he has had interactions with other travelers that have "not been the best." He reiterated that his first-class travel arrangements aren't up to him.

Agency security officials "place me on the plane where they think is best from a safety perspective," he told the station.

While the EPA's inspector general has said that Pruitt has received a higher number of threats than his recent predecessors, that hasn't ended questions about why the administrator was given an open-ended waiver to fly first class using public funds.

"Pruitt's explanation is absurd and assumes that it's easier to protect someone in first class than in economy," said Chris Lu, who served as White House Cabinet secretary during Barack Obama's first term. "Members of Congress who routinely fly coach should be offended by his lavish travel habits."

During his time managing the Obama Cabinet, Lu said no waivers for first-class travel were granted for any Cabinet member. "During a time of recession, we knew it was important to demonstrate that we were good stewards of taxpayer dollars," he said.

A former senior administration official who served under George W. Bush and was familiar with the travel practices of Cabinet members during that administration said that "everybody flew economy, with very few exceptions." The official spoke on the condition of anonymity to discuss security arrangements.

Pruitt has taken other security measures since assuming office a year ago. He is the first EPA administrator to have a round-the-clock security detail, and he has had a \$25,000 soundproof phone booth installed in his office for making secure calls. Biometric locks also were added to its doors.



House Democrats on Wednesday asked EPA's inspector general, who already is investigating elements of Pruitt's travel practices, to examine his first-class flights as well as who was involved in drafting the security waiver that allows them.

"Administrator Pruitt's many first-class flights around the country at taxpayers' expense raise renewed concerns of secrecy and waste at the Trump EPA," the Democratic lawmakers wrote. "American taxpayers deserve assurances that their tax dollars are not wasted by the government's highest officials."

White House spokeswoman Sarah Huckabee Sanders on Wednesday declined to weigh in on Pruitt's flights, saying instead that the administration was focused only on the deadly school shooting unfolding in Florida.

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## **E&E Daily**

<https://www.eenews.net/eedaily/stories/1060073963/search?keyword=EPA>

### **Pruitt 'entitled' to fly first class — Inhofe**

By Geof Koss and Kevin Bogardus, 2/15/18

The news that U.S. EPA Administrator Scott Pruitt has flown the friendly skies in first class generated buzz on Capitol Hill yesterday, although a key political ally defended the practice as entirely justified.

"I understand that he's been the subject of a lot of threats and that's the reason that they have that class differential, and I think he's entitled to it," Sen. Jim Inhofe (R-Okla.) told E&E News.

"And it's my understanding that all of his trips have been bounced off of ethics first, so he's clean," Inhofe said. "So I just don't think he's doing anything that's not appropriate."

Democrats predictably pounced on the revelations — confirmed by EPA — that Pruitt is allowed to fly first class because of security risks (E&E Daily, Feb. 14).

"It just seems like he doesn't pay any attention to the ethics laws in terms of his travel, you know, back and forth," said Energy and Commerce Committee ranking member Frank Pallone (D-N.J.), who later in the day asked the agency's Office of Inspector General to look into Pruitt's "blanket waiver" that allows the EPA chief to fly first class (E&E News PM, Feb. 14).

"He's been spending money on all kinds of things that are totally unnecessary," Pallone continued, noting the soundproof booth Pruitt ordered installed at EPA headquarters, which is under review by the Government Accountability Office (Greenwire, Jan. 17).

"He goes first class, he builds his special rooms. He just completely ignores the cost of all of these things and the ethics," said Pallone.

EPA later modified its statement on Pruitt's blanket waiver, saying rather the administrator receives individual waivers for each first-class trip he takes.

"The [General Services Administration] rule has a provision for security. As such, for every trip Administrator Pruitt submits a waiver to fly in either first or business class," EPA spokesman Jahan Wilcox said.

The GSA Federal Travel Regulation, which governs executive branch travel paid for by the government, says "blanket authorization" of travel other than in coach is barred and can only be authorized on "an individual trip-by-trip basis" unless the traveler has a disability or special need.

The GSA rule does say "exceptional security circumstances" can allow for agency travelers to fly other than coach. Those circumstances are determined by the agency and can include flying coach endangering the traveler's life or government property.

Pruitt has defended his use of first-class flights. In an interview with WMUR-TV in New Hampshire on Tuesday, the EPA chief said he has had some negative "instances" while traveling.

"There have been instances, unfortunately, during my time as administrator. As I have flown, I have spent time of interaction that's not been the best," Pruitt said.

Pruitt said he is not involved in decisions regarding his security, including his travel, which are made by his protective detail and his chief of staff.

"They place me on the plane where they think it's best from a safety perspective," Pruitt said.

Asked whether he has had "near-confrontations" with other passengers flying coach, Pruitt declined to offer details. "I don't want to really get into the specs," said the administrator.

"The level of protection is determined by the level of threat," he added. "And that includes the travel, where I stay, how I travel."

Some Republicans questioned how being seated in first class made Pruitt any safer.

"My honest impression was the plane should be equally safe no matter where you're sitting," Sen. Shelley Moore Capito (R-W.Va.) told E&E News.

"I would have to assume, without talking to him, that there's been a safety assessment to say that it's better for him to be in the front of the plane. But in my view all seats should be created equal in terms of safety."

Inhofe, a longtime pilot, said he didn't know what the safety advantages of flying first class are.

"Apparently it's believed by government that there is," he said. "They operate that way, so there must be something there."

Asked about Pruitt getting a waiver to fly first class, Rep. Gerry Connolly (D-Va.) brought up former Rep. Tom Price (R-Ga.), who resigned as Trump's Health and Human Services secretary last year over his use of private jets.

"I always find it interesting when so-called fiscal conservatives make big carve-outs for themselves. Tom Price comes to mind," Connolly said.

"It reminds me of an old saying of a friend of mine, humorist and author Jim Boren, who used to say, 'If you're going to be a phony, at least be sincere about it.'"

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#### **Washington Examiner**

<http://www.washingtonexaminer.com/epas-scott-pruitt-touts-renewable-energy-in-new-england/article/2649118>

#### **EPA's Scott Pruitt touts renewable energy in New England**

By John Siciliano, 2/14/18, 4:01 PM

Environmental Protection Agency Administrator Scott Pruitt gave hydroelectric power plants the Trump administration's seal of approval, as he continued his tour of New England Wednesday.

"EPA will continue to work with our partners in the states to make responsible use of our country's tremendous natural resources," Pruitt said after touring FirstLight Energy's Northfield Mountain Generating Station in Massachusetts with Federal Energy Regulatory Commission member Neil Chatterjee.

The tour followed Pruitt's visit Tuesday to New Hampshire, where he said his agency is working with the Energy Department and others to help the state use timber waste, referred to as biomass, as a renewable energy resource. Wednesday marked the second day Pruitt played up a renewable energy resource that has administration support.

The EPA said the Trump administration is "committed to meeting U.S. energy needs by utilizing hydroelectric power." The hydroelectric facility uses the Connecticut River to power more than one million houses in the region.

Pruitt said he and Chatterjee "saw firsthand the way this facility uses innovative technology to power the region."

The company that owns the Northfield facility was called upon during last month's winter storm by the FERC-overseen New England grid operator to provide power to the grid amid soaring demand for electricity for heating. As the Connecticut power plant ramped up, the water level at its dam fell below required levels.

However, FERC, which licenses hydropower dams, said in a letter that it would not take punitive action against the company since the power was requested by the Independent System Operator and the company consulted with necessary agencies.

The letter underscored a key facet of President Trump's infrastructure plan, which calls for streamlining environmental rules and giving one agency the final authority in issuing a permit or license for a project. The FirstLight facility at Candlewood Lake was required to file with FERC, Interior Department wildlife regulators and state offices to ensure it did not violate the parameters of its FERC license during the emergency weather event.

Trump's "one agency, one permit" concept would designate "a lead federal agency" to meet a two-year deadline of issuing one final decision for a major project.

The issue of grid reliability also was raised during Wednesday's visit, according to John Shue, a senior vice president at FirstLight.

Pruitt also visited EPA's Region 1 office that covers New England to discuss toxic cleanup at Superfund sites in the region and its efforts to work with state and local emergency responders on protecting communities from dangerous chemical accidents.

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## **E&E Climatewire**

<https://www.eenews.net/climatewire/stories/1060073981/search?keyword=EPA>

### **Pruitt makes surprise stops at ... clean energy plants**

By Niina Heikkinen and Ben Storrow, 2/15/18

Scott Pruitt, widely panned as an ally of the fossil fuel industry, is taking a renewables tour in New England this week.

On the same day he surprised U.S. EPA staff at the Region 1 office in Boston with boxes of Dunkin' Donuts, Pruitt traveled west to visit the FirstLight Northfield Mountain Generating Station, a pumped storage hydroelectric station in Northfield, Mass. Joining him was Commissioner Neil Chatterjee of the Federal Energy Regulatory Commission.

The choice of venue was a surprise for a number of observers who are more used to Pruitt touting his work to roll back regulations on oil and gas and coal. EPA offered few details on the trip beyond a brief press release yesterday afternoon.

"Commissioner Chatterjee and I saw firsthand the way this facility uses innovative technology to power the region," Pruitt said in a statement. "EPA will continue to work with our partners in the states to make responsible use of our country's tremendous natural resources."

The visit marked Pruitt's second stop at a renewable-energy-related business this week. The day before, the administrator met with members of the forestry industry to discuss an agency policy on biomass. Both energy sources come with a degree of controversy. Environmentalists have questioned how much the use of biomass actually addresses climate change, while hydropower raises concerns about the health of local rivers and wildlife.

When asked about the next stops, EPA's press office did not elaborate on whether the administrator would be touring other energy facilities or meeting with other industry groups.

Tyson Slocum, director of the energy program at the watchdog group Public Citizen, doesn't view Pruitt's stops as a sign that the Trump administration is changing its approach on the environment.

"I don't think that a travel or photo op changes the underlying direction of policy under his administration," Slocum said. "What we have seen very aggressively is the intent to dismantle the system of regulations to protect water and air and public health and to aggressively promote the coal industry."

Pruitt's showing public interest in biomass and hydropower facilities might seem more palatable politically than visits to other renewable outfits, Slocum added.

"Biomass and hydro are more conventional types of renewable resources for a variety of different reasons," he said. "Wind and solar became politicized, especially by opponents to the Obama administration."

Pruitt is widely rumored to harbor ambitions for running for office back in Oklahoma or perhaps even for the White House. His meetings with state officials in New Hampshire — a pivotal state during presidential elections — have fueled that speculation.

In Massachusetts, Pruitt's visit raised questions about whether his visits reflected lobbying from the forest and hydropower industries.

Within the past decade, the Massachusetts Legislature has directed the state Department of Energy Resources to draw up science-backed standards on what qualifies as clean renewable energy generation, said Caitlin Peale Sloan, a staff attorney at the Conservation Law Foundation.

"The hydro industry and the biomass industry are feverishly lobbying to weaken those standards. Given how these two industries have been trying to weaken Massachusetts' strong standards, if he's visiting biomass one day and hydro the next, I wouldn't be surprised if he's been getting calls from industry lobbyists," she said.

Pruitt's visit was also surprising because EPA is not in charge of the relevant standards, though FERC is.

Pruitt and Chatterjee's visit comes at an especially sensitive time for the controversial pump storage facility. Northfield Mountain is one of five facilities along the Connecticut River currently in the relicensing process with FERC.

Its current license expires in April, and FirstLight Power Resources suffered a surprise setback in January, when FERC denied the company's application to temporarily pump more water and increase electricity generation during the winter. Federal regulators have routinely approved similar requests, but they shot down this year's application after an endangered shortnose sturgeon was found along the stretch of the Connecticut River leading up to the pump storage facility.

Local government officials, who have long expressed concerns about the environmental impact of Northfield Mountain's operations, said they were in the dark about a visit from two high-profile federal officials.

"Interestingly, a lot of us were with FirstLight representatives yesterday, and they didn't mention it to us," said Kimberly MacPhee, natural resource program manager for the Franklin Regional Council of Governments, a planning agency serving 26 western Massachusetts communities.

Those discussions were part of settlement negotiations over Northfield Mountain's relicensing application. Andrew Fisk, executive director of the Connecticut River Conservancy, was also on hand for those talks.

"Because we're right in the middle of settlement negotiations, the idea of having a FERC commissioner and EPA administrator show up is interesting," Fisk said.

Further details about the nature of Pruitt's visit were difficult to come by. FirstLight representatives did not respond to requests for comment. In an email, a spokesperson for Chatterjee said the commissioner visited the hydroelectric facility at the invitation of the EPA administrator and was not there in relation to the ongoing case involving FirstLight and FERC.

Northfield Mountain was built in the 1970s to supplement power from the nearby Vermont Yankee Nuclear Power Station, which was retired in 2015. Water from the Connecticut River is pumped to a reservoir atop the mountain, where it is stored. Water is released down the mountain during periods of peak electricity demand, powering four turbines with a combined capacity of 1,080 megawatts. More recently, the station has proposed serving as a storage facility for an offshore wind project south of Martha's Vineyard, Mass.

Local officials have long been concerned about fluctuating river levels that result from the pumping. They say the fluctuation damages private property and riparian habitat along the Connecticut River. They want FirstLight to do more to contain erosion along the river.

"We have a responsibility to make sure project operations are operated in a way that is as protective of the resource as possible," MacPhee said.

While advanced batteries may someday replace the facility's storage capacity, environmentalists recognize that Northfield Mountain offers an important source of low-carbon energy, Fisk said.

"But we want to see this hydro facility have the smallest possible ecological footprint," he said.

It will be important for federal officials to respect the authority of state officials who are charged with issuing the facility's water quality permit as part of the relicensing discussions, Fisk said.

His message to Pruitt and Chatterjee: "Just make sure they listen to the locals."

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## **The Hill**

<http://thehill.com/business-a-lobbying/373947-report-epa-penalties-against-polluters-cut-in-half-under-trump>

### **EPA penalties for polluters cut in half under Trump, study finds**

By Miranda Green, 2/15/18, 10:38 AM

The amount of civil penalties charged to polluters by the Environmental Protection Agency (EPA) dropped by nearly half under President Trump, according to a new study released Thursday.

The report by the Environmental Integrity Project found that in the year since Trump's inauguration, the penalties companies were forced to pay for violating regulations dropped by 49 percent compared to in President Obama's first year.

Looking specifically at penalty amounts determined for cases lodged by the Trump administration, EIP found the Trump EPA collected \$30 million compared to \$71 million and \$50 million in penalties under the Obama and George W. Bush administrations respectively.

The report also found the number of cases filed against polluters by the Trump administration dropped drastically. There were 44 percent fewer cases opened under Trump than Obama in the first year of their administrations. In 2017, Trump recommended the Justice Department prosecute 48 civil cases compared to 71 civil cases prosecuted in 2009 under Obama. Comparatively, Bush officials lodged 112 cases in his first year in office.

"President Trump's dismantling of the EPA means violators are less likely to be caught, making illegal pollution cheaper," said Eric Schaeffer, EIP executive director and former director of EPA enforcement, in a statement. "The president's 'law and order' agenda apparently wasn't intended for fossil fuel companies and other big polluters."

The numbers in the report paint a more dire picture at EPA than numbers released by the agency just last week in its annual enforcement report. That report, which tallied enforcement cases and penalties between Oct. 1, 2016, and Sept. 30, 2017, found that EPA enforcement cases dropped by almost 30 percent.

The number of cases recommended in fiscal 2017 was 110, compared to 152 the year before.

Experts warned the fiscal year wasn't the most complete measurement of regulatory enforcement under the Trump administration because it likely included cases opened under Obama and completed under Trump.

The EIP data, instead, solely tallied cases opened under Trump.

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## **Bloomberg**

<https://www.bloomberg.com/news/articles/2018-02-15/epa-collecting-half-the-penalties-under-trump-as-predecessors>

### **EPA Collecting Half the Penalties Under Trump as Predecessors**

By Jennifer A. Dlouhy, 2/15/18, 12:01 AM

The Environmental Protection Agency has collected roughly half as much in civil penalties from polluters during President Donald Trump's first year in the White House than it did under the past three presidents in the same time-frame, according to research being released on Thursday.

The assessment by the non-partisan Environmental Integrity Project also found that Trump's EPA settled roughly 44 percent fewer civil cases involving violations of environmental laws. Penalties collected totaled 49 percent of the average of the three previous presidents' first year in office.

Eric Schaeffer, head of the Environmental Integrity Project and a former director of the EPA's Office of Civil Enforcement, said the declines send the wrong signal to would-be polluters, coming amid cuts in agency staffing that may reduce the EPA's ability to pursue violators.

"President Trump's dismantling of the EPA means violators are less likely to be caught, making illegal pollution cheaper," Schaeffer said.

According to his organization's analysis, the Trump administration lodged consent decrees for 48 civil cases involving environmental violations and collected \$30 million in penalties from Jan. 20, 2017 to Jan. 20, 2018. That compares with

71 cases and \$71 million under President Barack Obama, 112 cases and \$50 million under President George W. Bush and 73 cases and \$55 million under President Bill Clinton.

The decline in cases comes on top of a backlog of violations of air, water and other environmental laws that haven't yet led to civil claims or settlements, including many from facilities in the Rust Belt, where voters helped elect Trump, Schaeffer said.

"These are the very people President Trump said he would help, and they are the ones getting hit the hardest," Schaeffer said.

Vigorous enforcement is key to ensuring that potential polluters know that someone is vigilantly monitoring their performance, Schaeffer said. That's critical, he added, because guarding against pollution and keeping pollution control equipment running properly is an ongoing task.

Environmental enforcement trends can vary over time. Because cases take years to develop, the bulk of the EPA's caseload during Trump's first year in office would derive from violations and enforcement actions started under Obama - and the numbers now may reflect a steady decline in federal inspections and evaluations since fiscal year 2012.

According to EPA data released last week, the agency initiated more than 1,900 and concluded nearly 2,000 civil judicial and administrative cases in fiscal 2017, reflecting a downward trend that goes back at least nine years.

The Environmental Integrity Project's analysis also did not include criminal environmental cases, matters involving toxic Superfund sites and administrative actions that EPA uses to resolve smaller violations.

The EPA said it could not comment on a study it hasn't seen but said in a statement that the agency "works with state partners on enforcement oversight."

And EPA Administrator Scott Pruitt has vowed to get tough on corporations violating environmental laws, telling Bloomberg News in an interview last October that "we're going to do enforcement -- to go after bad actors and go after polluters."

The cost of pollution control steps that defendants have agreed to in settlements with the Trump administration is also down by comparison to the first year of the Obama and Bush administrations, according to the assessment. The value of that relief can swing dramatically depending on the timing of big settlements.

And critics say at least some of those settlement estimates have been inflated, citing an October settlement with Exxon Mobil Corp. in which the oil company agreed to pay \$300 million to resolve air pollution violations tied to eight chemical plants in Texas and Louisiana. But that \$300 million estimate includes money the company has spent since 2011 to comply with permit requirements -- well before the case concluded.

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## **Politico**

<https://www.politicopro.com/energy/whiteboard/2018/02/green-group-says-epa-enforcement-plummeted-in-trumps-first-year-629893>

### **Green group says EPA enforcement plummeted in Trump's first year**

By Alex Guillen, 2/15/18, 5:02 AM

Civil enforcement at EPA fell sharply in the Trump administration's first year as compared to the first years of the previous three presidents, according to a report from the Environmental Integrity Project.

EPA and the Justice Department lodged 48 lawsuits in the administration's first year, collecting \$30 million in penalties, EIP said after reviewing court records. The Obama administration filed 71 cases that yielded \$71 million in penalties, or \$81 million once adjusted for inflation, EIP said. Figures for the Bush and Clinton administrations were also significantly higher than under Trump, according to the report.

There also appears to have been a drop in the money EPA secured from violators to clean up pollution and prevent future violations, known in enforcement jargon as "injunctive relief." EIP said records showed the Trump administration secured \$966 million in such relief in its first year, although it acknowledged EPA does not always disclose such data. The Obama administration secured \$3.3 billion in its first year.

EIP noted that for each administration, the figures include cases that were started under the previous president.

EPA last week released its own annual enforcement report covering fiscal year 2017, which ran from Oct. 1, 2016 to Sept. 30, 2017. It reported civil penalties of \$1.6 billion and \$20 billion in injunctive relief, a figure boosted by \$16 billion related to the long-running Volkswagen scandal.

EIP did not review criminal or Superfund enforcement cases, or administrative actions used for minor violations.

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### **E&E Energywire**

<https://www.eenews.net/energywire/stories/1060073949/search?keyword=EPA>

### **Enforcement is lagging under Pruitt, green group says**

By Mike Soraghan, 2/15/18

When U.S. EPA officials inspected oil and gas well sites in rural eastern Ohio, they found more than 30 leaking methane and toxic vapors.

More than two years later, the agency hasn't taken action against the oil companies operating the wells — Chesapeake Energy Corp. and Gulfport Energy Corp. An environmental group that analyzed the cases and enforcement data says it's a sign that EPA Administrator Scott Pruitt and the Trump administration are throttling back the agency's environmental enforcement.

"There's lots and lots of open cases," said Eric Schaeffer, executive director of the Environmental Integrity Project. "With the loss of resources, these cases will fall off the vine."

Schaeffer suspects some already have. EIP's analysis of EPA data, being released today, shows that in the year after President Trump took office, the agency resolved 48 civil enforcement cases in court actions that recovered \$30 million in penalties.

That's 44 percent fewer cases and 49 percent less in penalties than the average during the three previous presidential administrations, according to the report being released today.

An EPA spokeswoman said yesterday the agency couldn't comment on a study its leaders haven't seen, except to say that "EPA works with state partners on enforcement oversight."

Since Pruitt became EPA administrator and started rolling back Obama-era environmental regulations, he has stressed that he's still a tough enforcer of the rules on the books. "I don't spend any time with polluters. I prosecute polluters," he told Time last year.



But the numbers indicate he prosecutes them less often. In December, The New York Times reported that EPA under Pruitt had opened about 25 percent fewer cases than during the same period during the administration of President George W. Bush (Greenwire, Dec. 11, 2017). Earlier this month, the Transactional Records Access Clearinghouse released criminal enforcement data showing a sharp drop in new environmental prosecutions across the administration (E&E News PM, Feb. 1).

At Trump's six-month mark, EIP released numbers showing that civil fines were down 60 percent. EPA officials have noted that enforcement cases often take years, so it can be difficult to attribute changes to the policies of a new administration.

EPA enforcement numbers have been dropping in recent years as Congress cut back the agency's budget. The number of inspections by agency staff dropped by nearly one-third between 2012 and 2016, from nearly 20,000 to a little more than 13,500. But enforcement data indicate the number of enforcement cases was dropping under the Obama administration even before Republicans took control of Congress and started cutting.

About 700 people have left EPA in the past year as the Trump administration seeks to shrink the size of the agency. The administration has also sought deep budget cuts to EPA and enforcement in particular.

Schaeffer, who ran EPA's Office of Civil Enforcement from 1997 to 2002, said that after a year, the sharp decreases are revealing Trump's and Pruitt's true colors on prosecuting polluters.

"Now we're looking at shrinking resources and an unfriendly climate," he said.

EPA inspectors visited the Ohio oil and gas sites in April, August and November 2015. The agency sent formal notices of violation in December 2016 to the two companies, which are both based in Oklahoma City.

The inspectors spotted leaks from "thief hatches" and pressure relief devices on the storage tanks at the site. The volatile organic compounds, or VOCs, that leak out can include butane, xylenes and benzene. VOCs can cause eye, nose and throat irritation; headaches; loss of coordination; nausea; and damage to the liver, kidneys and the central nervous system, according to EPA, and can lead to smog.

In a November securities filing, Chesapeake said it was in discussions with EPA to resolve the allegations and noted that might cost the company more than \$100,000.

EPA and other federal agencies have also investigated cases in which blasts of VOCs appear to have killed workers after they opened thief hatches (Energywire, Oct. 20, 2017).

The methane that leaks out is less directly harmful to humans if it doesn't ignite, but it is a powerful greenhouse gas that contributes to climate change.

The oil and gas industry complained to Pruitt shortly after he took office last year about Clean Air Act inspections at production sites, mostly in North Dakota and Colorado. In response, Pruitt promised a more "judicious" use of EPA's enforcement powers (Energywire, Jan. 17).

He also pledged a roundtable meeting with industry leaders to hear complaints, which is to take place later this month.

The Chesapeake and Gulfport cases were two of more than a dozen examples that EIP included in its report to show what cases could be left undone if the EPA continues to lag in enforcement. EIP obtained the documents through a Freedom of Information Act request. The report notes that federal officials could still be seeking to resolve the cases but stresses that they are a fraction of the backlog of cases at the agency.

EIP also flagged violations reported found by EPA at a MarkWest gas plant in Somerville, Ohio, and the St. Paul refinery in Minnesota.

EIP's report also includes an Exxon Mobil Corp. enforcement action that EPA said showed its "commitment to enforce the law." But EIP said the agency exaggerated the effect of the action by including emissions reductions that Exxon had to make for other reasons.

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## **The Hill**

<http://thehill.com/opinion/energy-environment/373912-time-to-rethink-the-renewable-fuel-standard>

### **Time to rethink the Renewable Fuel Standard**

By Merrill Matthews, 2/15/18, 10:00 AM

Environmental Protection Agency Administrator Scott Pruitt thinks U.S. refiners are being forced to blend too much ethanol into their gasoline. His recent comments to that effect sent biofuel advocates into a frenzy. But it's the public who should be angry.

If ever a federal program had outlived its usefulness, it's the government's support for ethanol.

The modern ethanol industry got its start in the mid-1970s, when U.S. crude oil production began to decline and Middle Eastern countries began using oil exports as a tool to punish the U.S. for its pro-Israel policies.

Congress subsidized ethanol production for decades, in the hope of reducing U.S. dependency on imported oil and creating a more environmentally friendly alternative to gasoline. But in 2005, Congress took a different approach when it passed the Energy Policy Act, creating the Renewable Fuel Standard. The RFS requires nearly all gasoline to be mixed with ethanol, which is mostly corn-based though increasingly includes other biofuels.

The new law mandated that 4 billion gallons of ethanol be mixed into gasoline beginning in 2006. Congress expanded that mandate when it passed the Energy Independence and Security Act of 2007, requiring a minimum of 36 billion gallons of ethanol to be mixed into gasoline by the year 2022.

But problems emerged.

To begin with, Congress required a significant increase in cellulosic biofuels — made from switchgrass and other organic substances — and other biofuels so we weren't putting so much corn in our gas tanks. However, the industry initially had trouble keeping up with those targeted productions.

Second, the economic recession, along with more fuel-efficient cars, meant that gasoline usage remained relatively flat for several years, rather than growing as Congress had anticipated.

Normally, lower-than-expected gasoline usage would have been considered good news. However, to meet the congressionally imposed mandate requiring more ethanol, refiners would have to increase the percentage of ethanol per gallon of gasoline, which was usually capped around 10 percent and referred to as the "blend wall."

And that predicament led to the third problem. Higher blend levels could harm older car engines, as car manufacturers repeatedly warned.

Then there's a fourth problem, which Pruitt highlighted in his recent comments: The mandate's impact on refiners.

Philadelphia Energy Solutions, the largest refiner on the East Coast, recently filed for bankruptcy citing the RFS.

Here's why. Refiners that don't meet their goal of mixing ethanol have to buy a type of credit, known as RINs, which can be very costly.

For example, the management consulting company McKinsey & Co. recently reported, “For refiners this [the credits] translated into an additional cost of operations of [\$3 to \$4 per] barrel of crude processed. ... For example, Valero energy has projected annual spend on RINs in 2016 could total \$850 million.”

In other words, refiners may be out hundreds of millions of dollars just complying with federal regulations. Pruitt thinks the RFS program needs to be reformed and he is absolutely right.

It won't be easy. The corn-based ethanol industry is powerful. And Iowa, the first state up in the presidential election primary process, is one of our biggest corn producers. And so the ethanol industry works to ensure that every potential presidential candidate is a strong supporter of ethanol and the RFS.

But times change. The reasons for creating the RFS — declining U.S. crude oil production and the belief that ethanol was more environmentally friendly — no longer apply.

Innovative drilling techniques, which really began to take off about the time Congress created the RFS, have made the U.S. the largest producer of crude oil and natural gas in the world. Production is rising, not falling as it was in the 1970s.

In addition, many environmentalists now question whether ethanol is that much cleaner than gasoline, given all of the fuel and water it takes to grow, harvest, transport and process corn into ethanol — not to mention its impact on the price of corn.

In short, even if the reasons for subsidizing and mandating the use of ethanol were once true, not anymore. Pruitt is right that its time to reconsider the Renewable Fuel Standard, regardless of who that angers.

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## **New York Times**

[https://www.nytimes.com/2018/02/15/us/politics/epa-pollution-loop-hole-glider-trucks.html?ref=collection%2Ftimestopic%2FEnvironmental%20Protection%20Agency&action=click&contentCollection=timestopics&region=stream&module=stream\\_unit&version=latest&contentPlacement=1&pgtype=collection](https://www.nytimes.com/2018/02/15/us/politics/epa-pollution-loop-hole-glider-trucks.html?ref=collection%2Ftimestopic%2FEnvironmental%20Protection%20Agency&action=click&contentCollection=timestopics&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection)

### **How \$225,000 Can Help Secure a Pollution Loophole at Trump's E.P.A.**

By Eric Lipton, 2/15/18

CROSSVILLE, Tenn. — The gravel parking lot at the Fitzgerald family's truck dealership here in central Tennessee was packed last week with shiny new Peterbilt and Freightliner trucks, as well as a steady stream of buyers from across the country.

But there is something unusual about the big rigs sold by the Fitzgeralds: They are equipped with rebuilt diesel engines that do not need to comply with rules on modern emissions controls. That makes them cheaper to operate, but means that they spew 40 to 55 times the air pollution of other new trucks, according to federal estimates, including toxins blamed for asthma, lung cancer and a range of other ailments.

The special treatment for the Fitzgerald trucks is made possible by a loophole in federal law that the Obama administration tried to close, and the Trump administration is now championing. The trucks, originally intended as a way to reuse a relatively new engine and other parts after an accident, became attractive for their ability to evade modern emissions standards and other regulations.

The survival of this loophole is a story of money, politics and suspected academic misconduct, according to interviews and government and private documents, and has been facilitated by Scott Pruitt, the administrator of the Environmental Protection Agency, who has staked out positions in environmental fights that benefit the Trump administration's corporate backers.

Fitzgerald welcomed President Trump at one of its dealerships during the campaign, and it sells baseball caps with the slogan "Make Trucks Great Again."

The loophole has been condemned in recent weeks by an array of businesses and environmentalists: major truck makers like Volvo and Navistar; fleet owners like the United Parcel Service; lobbying powerhouses like the National Association of Manufacturers; health and environmental groups like the American Lung Association and the Consumer Federation of America; and some Fitzgerald competitors in Tennessee, Texas and Oklahoma, Mr. Pruitt's home state.

"This just does not make any sense to me," said Christine Todd Whitman, who served as head of the E.P.A. during the first George W. Bush administration. "Everybody breathes the same air, Democrats or Republicans. It does not matter. This is about keeping people healthy."

But the Fitzgerald family has had influential allies. In addition to Mr. Pruitt, they include Representative Diane Black, a Republican who is a candidate for Tennessee governor, and Tennessee Technological University, a state university that produced a study minimizing pollution problems associated with the trucks.

Ms. Black introduced legislation in 2015 to protect the loophole when it was first in line to be eliminated by a stricter diesel emissions rule under the Obama administration. That bill failed, but after the election of Mr. Trump, she turned to Mr. Pruitt to carve out an exemption to the new rule — scheduled to take effect last month — and presented him with the study from Tennessee Tech.

Fitzgerald had not only paid for the study, which has roiled the faculty at Tennessee Tech and is the subject of an internal investigation, but it had also offered to build a new research center for the university on land owned by the company. And in the six weeks before Mr. Pruitt announced in November that he would grant the exemption, Fitzgerald business entities, executives and family members contributed at least \$225,000 to Ms. Black's campaign for governor, campaign disclosure records show.

The multiple donors allowed the company to circumvent a Tennessee state law intended to limit the size of campaign contributions by corporations and political action committees. The donations — many of which came through a series of limited liability companies tied to the family — represented 12 percent of the money Ms. Black had raised from outside sources through last month, the records show.

Tommy Fitzgerald, an owner of Fitzgerald, said the actions by Ms. Black and Mr. Pruitt were good public policy and not special favors to his company.

"I don't know why anyone would want to kill all these jobs," Mr. Fitzgerald said, referring to the several hundred people he said he employs at his dealerships, many of them in rural areas. "It does not make any sense."

Chris Hartline, a spokesman for Ms. Black, said the congresswoman had stood up for a constituent and was not influenced by the campaign donations, which he said complied with state law. "There are very few companies willing to try and keep manufacturing jobs in rural Tennessee today, and Diane fights hard to support the few that do," Mr. Hartline said.

An E.P.A. spokeswoman, Liz Bowman, said that Mr. Pruitt remained committed to protecting clean air. But, she said, he agreed with a legal argument made by Ms. Black and Fitzgerald that the agency did not have the authority to limit sales.

"E.P.A. is acting on behalf of anyone who sees merit in upholding and perhaps even bolstering the credibility of our laws and the role of Congress," Ms. Bowman said.

She said that the money donated to Ms. Black had no impact on the decision by Mr. Pruitt.

New Trucks, Old Engines

The trucks sold by Fitzgerald are known as “gliders” because they are manufactured without engines and are later retrofitted with the rebuilt ones. Gliders are popular among small trucking companies and individual truck owners, who say they cannot afford to buy or operate vehicles with new engines and modern emissions controls.

The trucks, which Fitzgerald claims burn less fuel per mile and are cheaper to repair, have been on the market since at least the 1970s. But after the federal government moved to force improvements in truck emissions, with standards that were first enacted during the Clinton administration and took full effect by 2010, gliders became a way for trucking companies to legally skirt the rules.

Dealers like Fitzgerald buy truck bodies from Peterbilt, Freightliner and other manufacturers and typically install 1990s-era engines, recovered from salvage yards, that its employees rebuild down to their cores. The used engines and other remanufactured parts allow dealers to claim that the new trucks predate emissions requirements, and therefore should be exempt.

Nationally, an estimated 10,000 glider trucks were sold in 2015 — or about 4 percent of all new heavy-duty truck sales — the last full year for which data is available, up from fewer than 1,000 in 2010. Fitzgerald is the industry’s largest dealer in retrofitting the trucks by selling so-called glider kit trucks, for about \$130,000. Modern trucks, which also include collision avoidance equipment, cost between \$145,000 and \$170,000, dealers said.

“I hate government mandates,” said Paul Bailey, a state senator and the operations manager at CB Trucking in Cookeville, Tenn., which hauls everything from building supplies to mustard in its fleet of 60 glider trucks, two-thirds of which were purchased from Fitzgerald.

The glider trucks take advantage of other regulatory loopholes. Since most of the engines were manufactured before 1999, the trucks are exempt from a federal law that went into effect in December intended to prevent accidents caused by fatigued drivers. The law requires commercial truck drivers to use an electronic logging system to track how many hours they spend behind the wheel, and to take mandatory breaks. The law covers truck engines manufactured after 1999.

The glider trucks, in some cases, also are not subject to a 12 percent federal excise tax imposed on truck sales, because they are not considered new trucks. Ms. Black intervened with the Internal Revenue Service last year, along with three other members of Congress, to protect that tax break.

A Fitzgerald salesman boasted last week that all 150 trucks on the company’s Crossville lot had been sold as trucking companies rushed to avoid the Obama-era emissions standards and the electronic tracking rule.

“We cannot build them quick enough,” said the salesman, Cody Poston. A second Fitzgerald salesman said the company had pending customer orders for 300 more and had about 2,000 glider trucks on the way to his sales lot.

Matt Moorehead, who helps maintain trucks at the CB Trucking garage in Cookeville, said glider trucks allow small companies and individual drivers to compete with big trucking companies.

He said the trucks are easier to repair and, by some accounts, burn less diesel fuel per mile. And by avoiding the electronic tracking system, drivers can continue to use paper logs, which can be more easily manipulated to allow flexibility in driving and rest times.

“When you got a load of eggs and milk to deliver, these rules can force you to stop driving when you are just a few miles short of your destination,” he said of the electronic tracking.

After E.P.A. officials, during the Obama administration, saw a surge in the number of glider trucks being sold, the agency moved to prohibit any company from manufacturing more than 300 of them per year, effectively killing the industry that had emerged to help sidestep the rules.

Fitzgerald, with Ms. Black's help, submitted a petition in July asking Mr. Pruitt to suspend the cap and declare that all gliders made by Fitzgerald and at least two other dealers — Iowa-based Harrison Truck Centers and Indiana Phoenix of Avilla, Ind. — be exempted because the new emissions requirements applied only to "new motor vehicle engines."

To bolster their argument, Fitzgerald submitted the study conducted by Tennessee Tech in late 2016. The study, which Mr. Pruitt cited in the E.P.A.'s November announcement of the rollback, concluded that emissions from the company's trucks were as clean as those with modern systems.

The push by Fitzgerald had started by May, according to a calendar of Mr. Pruitt's visitors, when Mr. Pruitt and his chief of staff met with executives from Fitzgerald and Donald Shandy, an Oklahoma lawyer who knows Mr. Pruitt from his tenure as Oklahoma's attorney general.

By September, to keep the momentum going, Fitzgerald had hired its first full-time federal lobbyist — a former aide to Ms. Black.

#### 'Super-Polluting Trucks'

Terry Dotson, president of Worldwide Equipment Enterprises, a Kentucky-based chain of truck dealerships that sells vehicles with modern emissions controls, said he remembered going into repair garages years ago when it was hard to breathe because of soot.

Mr. Dotson says he voted for President Trump and is a strong backer of the coal industry, which relies on his trucks for mining operations. But he does not agree with the administration's carve-out for glider trucks.

"I want Mr. Fitzgerald to make a fortune and be a happy man," Mr. Dotson said outside one of his Knoxville, Tenn., dealerships. "But everybody ought to play by the same set of rules."

Truck manufacturers, as well as shipping companies like UPS, fear that a permanent loophole would encourage other truck dealers to enter the glider business, further undermining efforts to reduce health hazards associated with diesel exhaust and creating unfair competition for them. The National Association of Clean Air Agencies, representing state regulators, and the attorneys general from 12 states have joined in protesting the rollback.

Chet France, former director of assessment and standards at the E.P.A. Office of Transportation and Air Quality, says there are enough truck engines in salvage yards to support the glider market for decades.

"We are talking about super-polluting trucks that are going to put the health of thousands of people at risk," said Mr. France, who worked at the E.P.A. for 30 years under Democratic and Republican administrations and is a consultant to the Environmental Defense Fund. "And for what?"

The E.P.A. estimates that over the life of every 10,000 trucks without modern emissions systems, up to 1,600 Americans would die prematurely, and thousands more would suffer a variety of ailments including bronchitis and heart attacks, particularly in cities with air pollution associated with diesel-powered trains, ships and power plants.

The health threats are caused by nitrogen oxide and tiny particles of dust and soot that create haze in the air.

In November, just days after Mr. Pruitt said he would eliminate the glider cap, staff members at the E.P.A. submitted an analysis to the agency's rule-making docket that contradicted the conclusions from Fitzgerald and Tennessee Tech that glider trucks created no more pollution than trucks with updated emissions systems.

The analysis said E.P.A. tests found that the Fitzgerald trucks emitted nitrogen oxide levels during highway operations that were 43 times as high as those from trucks with modern emissions control systems. The air pollution from these glider trucks was so bad that one year's worth of truck sales was estimated to release 13 times as much nitrogen oxide as all of the Volkswagen diesel cars with fraudulent emissions controls, a scheme that resulted in a criminal case against the company and more than \$4 billion in fines.

When testing the glider trucks in stop-and-go traffic, the E.P.A. report said, the testing equipment shut down because of the extreme level of particulates.

"The filters were overloaded with particulate matter," said the report, which included a photograph of the white filter that had turned pitch black.

In recent weeks, other questions have been raised about the accuracy of the Tennessee Tech study, the role engineering experts at the university played in it, and the relationship between Fitzgerald and the university.

The signature of Tennessee Tech's president, Philip B. Oldham, appeared on the study, which was included in the petition Fitzgerald submitted in July to eliminate the cap. In April, Mr. Oldham was photographed with Mr. Fitzgerald at the Bristol Motor Speedway in Tennessee, where Fitzgerald sponsors the Fitzgerald Glider Kits 300, a Nascar Xfinity Series stock car race. Mr. Oldham presided over an event at the university in August, where Fitzgerald announced it would build a new academic research center for the university.

Some faculty members say the university appears to have been used by Fitzgerald as part of its lobbying campaign.

"Our reputation has recently been damaged because of a study funded by Fitzgerald Glider Kits and used to influence federal policy," said a faculty senate resolution passed late last month. Christy Killman, president of the faculty senate, said the results of the study "raised a red flag."

Mr. Oldham did not respond to a request for comment, but he sent a letter to Ms. Killman this month confirming that a "misconduct in research" investigation had been started, at the faculty's request, adding that he wanted to ensure the university's reputation as an "honest broker of knowledge."

The public comment period on Mr. Pruitt's intention to repeal the annual cap on glider trucks has passed. Ms. Bowman, the E.P.A. spokeswoman, says the agency is now reviewing the comments before Mr. Pruitt announces a final decision.

"Continuing to improve air quality is a stated priority of Administrator Pruitt's," Ms. Bowman said. "Any comments received that raise concerns with the ability to maintain that goal are closely considered and analyzed."

At Fitzgerald's sales lot, employees said last week that there was no need to worry about pollution from the trucks, adding that they had emissions test results to prove it.

"They are just as clean," Mr. Poston said of the gliders, compared with modern trucks, "if not cleaner."

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## **NPR**

<https://www.npr.org/sections/thetwo-way/2018/02/14/583972957/top-epa-science-adviser-has-history-of-questioning-pollution-research>

### **Top EPA Science Adviser Has History Of Questioning Pollution Research**

By Rebecca Hersher, 2/14/18, 1:54 PM

In 2015, the top toxicologist for the state of Texas, Michael Honeycutt, was interviewed on Houston Public Radio. At the time, the Environmental Protection Agency was pushing for tighter limits on ozone, a type of air pollution that is hazardous for people with asthma and other respiratory diseases.

But Honeycutt said reducing air pollution could be dangerous.

"Houston and Los Angeles are going to lose people. People are going to die," he said. "According to EPA, people are going to die from lowering these standards," he continued, referring to the proposed tightening of ozone regulations.

Now, Honeycutt is the top science advisor for the EPA, a position that gives him potentially broad influence over how scientific data is incorporated into EPA policy. But many scientists say his comments on ozone and air pollution are one indication that he's a poor choice for the position.

"He misrepresents the science. Pollution is not good for your health," says Elena Craft, the senior health scientist for the Environmental Defense Fund in Texas.

Craft has known Honeycutt for at least a decade — they have sat side-by-side giving Congressional testimony on pollution science — and she says Honeycutt's comments on air pollution are outside the scientific consensus.

For example, his 2015 comments on ozone were misleading, she says. He cited data from an appendix of a massive EPA ozone analysis that found ozone levels in some particularly polluted neighborhoods could temporarily increase as the overall amount of air pollution decreased. However, he did not mention that once the amount of air pollution dropped below a certain level, the EPA predicted ozone would drop as well, providing long-term health benefits to the people in those areas.

"His positions generally are totally inconsistent with mainstream thinking. There's just never enough evidence to persuade him on environmental issues," Craft says. "It's frightening, honestly."

Honeycutt has broken with mainstream scientific opinion on other toxicology issues as well. In 2011, he split with the American Association of Pediatrics when he told Congress he thought the EPA was being overly cautious in its regulation of mercury.

"Methyl mercury is a toxic chemical, but the scientific data overwhelmingly do not support EPA's position on the health risk of mercury," Honeycutt wrote in response to questions from one of the congressional committee members.

In the same testimony, Honeycutt criticized the EPA for overstating the health hazards posed by hexavalent chromium, a carcinogen made famous by Erin Brockovich, as well as formaldehyde and arsenic.

"Almost every time there's a public concern about pollution he says there's nothing to worry about. Almost every time industry takes a position against stronger health protections, he takes their side and contorts the science to advocate for doing nothing," says Luke Metzger, state director of the advocacy group Environment Texas, who has watched Honeycutt in action for 17 years. "He just doesn't have any credibility anymore."

A 2014 investigation by the independent outlet the Center for Public Integrity found Honeycutt's regulatory opinions routinely reflect the opinions of industry, and under his leadership, Texas has loosened restrictions on dozens of chemicals. The president of the Texas Pipeline Association co-signed a letter of support for Honeycutt's nomination to the EPA science advisory board.

But some experts say Honeycutt's scientific analyses are sound, and that he is well-suited to advise the EPA.

"I think everyone is entitled to their views and opinions, and I have a tremendous amount of respect for him as a regulator as a scientist as a colleague," says Ivan Rusyn, the chair of interdisciplinary toxicology program at Texas A&M University, and a longtime colleague of Honeycutt's in academic toxicology circles.

He points out regulating pollution and chemicals is complex, in part because the data available to regulators often comes from studies on mice and rats, and not everyone agrees on how to assess the overall health risks for humans. There is sometimes room for legitimate differences of opinion among scientists.



"Dr. Honeycutt's biggest strength is his experience in regulatory science and converting data into decisions," says Rusyn. "Mike's experience, Mike's familiarity with the issues, and the way that he was able to implement clarity and transparency within the [Texas Commission on Environmental Quality] will serve the science advisory board and the EPA very well."

In a press release after his new position was announced, Honeycutt wrote, "It is my goal to direct the other members of the [Science Advisory Board] to bring sound science to the reviews that we will make in advising the administrator." In the coming months, Honeycutt and the rest of the science advisory board will likely weigh in on national chemical safety rules and rolling back regulations on coal-fired power plants.

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## **E&E Daily**

<https://www.eenews.net/eedaily/stories/1060073965/search?keyword=EPA>

### **Dems tout evidence of political meddling in advisory posts**

By Sean Reilly, 2/15/18

U.S. EPA political leaders overrode career employees' recommendations for filling vacancies on a key air quality advisory panel in favor of two appointees flagged for possible conflicts of interest and lack of relevant experience, two Senate Democrats charged yesterday.

Recently obtained agency documents suggest that EPA chief Scott Pruitt and his designees "are disregarding normal procedures and advice from career staff," Sens. Tom Carper (D-Del.) and Sheldon Whitehouse (D-R.I.) said in a letter to the Government Accountability Office.

"By doing so, they are avoiding the procedures put in place by the agency to ensure compliance with federal law and risk undermining the integrity and impartiality of these boards," the letter said.

At lawmakers' request, GAO has already launched a review of EPA's handling of appointments to its almost two dozen federal advisory committees.

The letter sent yesterday, however, focused on just one: the Clean Air Scientific Advisory Committee (CASAC), a seven-member body that furnishes outside expertise during the legally required reviews of the federal standards for ozone and five other pollutants.

Attached to the letter are two briefing summaries that EPA career employees prepared last September for Richard Yamada, named by Pruitt last year to the No. 2 post in the Office of Research and Development.

The briefings examined several options for making new appointments to the CASAC. Included in those options were the names of 11 nominees — almost all of them from academia — rated as "most qualified."

According to the summaries, however, Yamada then asked for more information on other candidates of his choice. They included Tony Cox, a Colorado-based consultant, and Larry Wolk, a physician who heads the Colorado Department of Public Health and Environment.

In summing up their pros and cons, the career employees noted that Cox had expertise in quantitative risk assessment and had previously served on national scientific panels.

But they added that he might have a conflict of interest or "appearance of a lack of impartiality" because of his past consulting work for industry groups like the American Petroleum Institute and American Chemistry Council.

Wolk, with a background in pediatrics and adolescent medicine, had "no direct experience in health effects of air pollution, epidemiology, toxicology," the briefing added.

Not long after, however, Pruitt named both Cox and Wolk to the CASAC. He also unveiled a directive barring active EPA grant recipients from serving on agency advisory panels on the grounds that the ban is needed to preserve members' independence. That policy is now the subject of three lawsuits, all still in their early stages.

In yesterday's letter, Carper and Whitehouse asked GAO to explore several other questions in its review. Among them: whether it is typical for the EPA administrator or political underlings "to reject the advice of career staff on appointments to science advisory boards" like the CASAC. "If not," they continued, "has EPA articulated a credible process for changing that practice now?"

Carper is the top Democrat on the Senate Environment and Public Works Committee; Whitehouse holds the comparable post on the EPW Subcommittee on Clean Air and Nuclear Safety.

Yamada is a former professional staffer on the House Science, Space and Technology Committee. The panel is chaired by Rep. Lamar Smith (R-Texas), a longtime critic of EPA's use of science.

Yamada joined EPA last spring as deputy assistant administrator in the Office of Research and Development (E&E News PM, June 13, 2017). He did not reply to an emailed request for comment sent early yesterday evening.

The documents released yesterday by Carper and Whitehouse also show that Yamada sought consideration for Robert Phalen, a professor of medicine at the University of California, Irvine, who once told an interviewer that "modern air is a little too clean for optimum health" and that children need exposure to contaminated air to help their lungs ward off pollutants (Greenwire, Nov. 6, 2017).

Phalen, who has stood by those comments, did not get a seat on the CASAC. Pruitt did name him, however, to the Science Advisory Board, another influential EPA panel that advises the agency on a variety of topics.

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## **E&E News PM**

<https://www.eenews.net/eenewspm/stories/1060073919/search?keyword=EPA>

### **EPA drops proposed rule on implementing 2015 ozone standard**

By Sean Reilly, 2/14/18

U.S. EPA, under legal pressure to finish the remaining attainment designations for its 2015 ground-level ozone standard, has dropped a proposed rule that would have spelled out the cutoff points for determining how significantly areas are out of compliance.

The agency, which had sent the proposed supplemental rule for "nonattainment area classifications" to the White House Office of Management and Budget for a standard review last September, withdrew it yesterday, according to the Reginfo.gov website.

Instead, the agency will move ahead "as soon as possible" with a classifications approach embedded in a proposed implementation rule published in November 2016, EPA spokeswoman Enesta Jones said in an email today. EPA currently classifies nonattainment areas on a 5-point scale ranging from "marginal" to "extreme," depending on the ambient ozone concentrations.

Proceeding with the 2016 proposal, which has already been put out for public comment, will avoid added delays in implementation of the 70-parts-per-billion standard, Jones said.

Under a Clean Air Act timetable, EPA was supposed to have made all attainment designations for that standard by last October. While the agency in November deemed the bulk of the country effectively in compliance with the 70 ppb threshold, it has yet to make designations for Los Angeles, Houston and other heavily populated areas that are likely to be out of compliance.

It now plans to make most of the remaining decisions by the end of April but wants until early August to wrap up work on an eight-county area in and around San Antonio, according to court filings in lawsuits brought both by public health and environmental groups and a coalition of Democratic-led states.

Some of the plaintiffs had questioned whether EPA's bid to adopt a supplemental classifications system was in fact another stalling tactic. In those quarters, the decision to withdraw it was today guardedly viewed as a positive.

"We welcome that EPA is moving forward to implement the overdue and unlawfully delayed implementation of the ozone health standard," Paul Billings, senior vice president for advocacy at the American Lung Association, said in an email this morning.

The group is among the plaintiffs in the lawsuit. The U.S. Court of Appeals for the District of Columbia Circuit has ordered the agency to file a status report by May 15 (Greenwire, Feb. 7).

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#### **E&E Greenwire**

<https://www.eenews.net/greenwire/stories/1060074029/search?keyword=EPA>

#### **EPA unable to monitor worker protection efforts — audit**

By Marc Heller, 2/15/18

U.S. EPA is putting new pesticide worker protection standards into place but doesn't have an effective way to know how closely they are being followed, according to the agency's internal watchdog.

In a report today, the Office of Inspector General said EPA should establish a system to collect and track information on pesticide exposure. EPA said it can't.

At issue are worker protection rules under the Federal Insecticide, Fungicide and Rodenticide Act. The standard dictates rules about the handling of pesticides, including training, as well as other details such as the minimum age allowed for registered pesticide applicators.

The standards have undergone occasional revisions, including last year. EPA said the updated rules are expected to protect more than 2 million agricultural workers and pesticide handlers on 600,000 farms.

EPA and its inspector general are split on how, and whether, the agency can collect information about exposure incidents on farms. In its report, the IG said that information would help EPA determine what effect the updated standards are having.

Pesticide applicators are required to report incidents, but the critics of the system say it's ineffective for several reasons, including poor government coordination and lack of public access to information.

The inspector general said EPA has access to some information through the National Institute for Occupational Safety and Health, for instance. But in its response, EPA cited several reasons it disagrees with the IG's recommendation.

EPA said it lacks legal authority to compel states or pesticide handlers, for instance, to submit information on incidents. Even if the agency could require such reports, it doesn't have legal authority to prosecute any failure to comply, EPA said.

Because EPA didn't offer a solution, the IG said, the issue remains unresolved.

In addition, EPA said, "Although there are efforts in a small number of states to collect occupational pesticide incident data from farmworkers, data on farmworker pesticide exposure incidents is generally unavailable."

In its own response, the IG said a majority of states — a total of 30 — collect pesticide incident data, citing the Migrant Clinicians Network.

"In the EPA's proposal to revise the WPS, the agency justified the revision because it was intended to reduce the incident rates of occupational pesticide exposure and related illnesses among pesticide handlers and agricultural workers who are covered by this rule, as well as to protect any bystanders from exposure to agricultural pesticide use," the report says. "The agency needs the ability to collect this available data."

The revised standards are also caught up in a dispute in Congress, as Sen. Tom Udall (D-N.M.) holds up legislation authorizing pesticide registration fees because of concerns over worker protections (Greenwire, Dec. 21, 2017).

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#### **E&E Daily**

<https://www.eenews.net/eedaily/stories/1060073973/search?keyword=EPA>

#### **New Source Review hearing reignites old divisions**

By Sean Reilly, 2/15/18

Republicans on a House panel yesterday assailed U.S. EPA's New Source Review permitting program as a bureaucratic barrier to economic growth. With equal heat, Democrats denounced EPA chief Scott Pruitt's recent decision to drop enforcement of a key provision.

The nearly two-hour-long hearing by the House Energy and Commerce Subcommittee on Environment mostly served to show that the fault lines regarding the NSR program — a source of prolonged strife during George W. Bush's administration — remain as entrenched as ever.

"Nothing will be easy," subcommittee Chairman John Shimkus (R-Ill.) said in an interview afterward when asked what the next step was.

The program, a linchpin of the Clean Air Act, requires manufacturers, power plants and other major industries to get preconstruction permits before building a new plant or embarking on a major modification of an existing facility.

If the overarching goal is to ensure that those businesses install up-to-date pollution controls, critics say the program has been muddled with unneeded requirements that don't take other air quality programs into account and may even discourage companies from attempting to reduce pollution.

"NSR is outdated and cumbersome," Stuart Spencer, air chief for the Arkansas Department of Environmental Quality, told lawmakers before urging adoption of a host of changes, including an exemption for efficiency projects. "The time to reform was yesterday."

Sounding a similar theme was Paul Noe, vice president of public policy for the American Forest and Paper Association. New Source Review is "impeding modernization and growth in the U.S. manufacturing sector," Noe said.

But Emily Hammond, a George Washington University law professor, said that clean air and economic growth "go hand in hand." John Walke, clean air director of the Natural Resources Defense Council, said many of the changes sought to

NSR "would let industry pollute more by significantly higher amounts." The panel, he said, should reject any such steps, adding, "Americans deserve better."

Bush administration attempts to rework the program were blocked by the courts. But Bill Wehrum, who was closely involved in those efforts, recently returned to EPA as head of the Office of Air and Radiation.

Regardless of what Congress might do, Pruitt has already signaled his determination to revamp NSR regulations. In a memo released in early December, he said EPA would no longer engage in "second-guessing" companies' pre-construction forecasts of the air pollution expected to result from a particular project.

The decision grew out of a long-running legal battle waged by Detroit-based DTE Energy Co. over whether an upgrade to a huge coal-fired power plant in southeastern Michigan counted as a major modification that should trigger additional regulations.

Although the company twice lost before the 6th U.S. Circuit Court of Appeals, EPA now "does not intend to substitute its judgment for that of the owner or operator," Pruitt wrote in the memo (Greenwire, Dec. 8, 2017).

In his opening statement, Rep. Frank Pallone (D-N.J.), the ranking member on the full Energy and Commerce Committee, lumped that change into what he called "toxic old policies bundled up in a heart-shaped box as a Valentine's Day present to polluters."

While NSR is not a perfect program, Pallone added, "it has helped reduce harmful air pollution and improve public health especially for people living in communities close to these facilities."

The odds of immediate congressional action appear slight. Last June, for example, Rep. Morgan Griffith (R-Va.) introduced two bills that would make significant changes to the status quo. H.R. 3127 would exempt energy efficiency and pollution control projects from NSR requirements. H.R. 3128 would "clarify" when a physical or operating change to a plant constitutes a modification.

"We have to come up with reasonable reform that makes sense," Griffith said yesterday. So far, however, neither bill has had a hearing.

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## **AP**

<https://apnews.com/c2fbbbb1cd564af28b3fc6dd0209bf81/EPA-announces-commitment-to-clean-Tennessee-lead-site>

### **EPA announces commitment to clean Tennessee lead site**

2/15/18

CHATTANOOGA, Tenn. (AP) — The Environmental Protection Agency has announced it will clean a lead site in Tennessee, pending federal funding.

News outlets report the EPA announced its commitment Tuesday to clean the Southside Chattanooga Lead Site when funds are awarded by the National Priorities List. This follows a resident getting lead poisoning in 2011, and the state turning to the agency for help. The agency has tested hundreds of yards for lead since and would remediate yards with lead levels above 1,200 ppm where children were living. Nearly 100 yards have been remediated.

Authorities are proposing the site be added to the list for funding eligibility.

Remedial project manager Cathy Amoroso tells the Chattanooga Times Free Press that once funding is awarded, yards above 360 ppm will be the cleanup target.

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**AP**

<https://apnews.com/3d38cf2236ef49c1a411c98705b18477/Official:-EPA-to-seek-protections-in-Alaska-mine-permit>

**Official: EPA to seek protections in Alaska mine permit**

By Becky Bohrer, 2/15/18

JUNEAU, Alaska (AP) — The company that wants to build a copper and gold mine near a major Alaska salmon fishery should receive strict scrutiny because of the fishery's cultural and economic importance, a regional U.S. Environmental Protection Agency official said Wednesday.

Chris Hladick, whose four-state region includes Alaska, said the EPA will seek to have protections it believes are necessary included in the permit being sought by the Pebble Limited Partnership for the Pebble Mine project, in Alaska's Bristol Bay region. But he could not say how the EPA process ultimately will play out.

Commercial fishing is a big industry in Alaska. "Obviously, anything that could impact that is huge," Hladick, a former state commerce commissioner, said in a phone interview during a visit to the state Wednesday.

About half of the world's sockeye salmon is produced by Bristol Bay, according to the EPA.

The EPA plans to seek public comment on whether it should take additional steps under the federal Clean Water Act to prevent "unacceptable adverse effects" in the Bristol Bay region. The timetable for doing so hasn't been announced.

Last year, in a legal settlement with the Pebble partnership, the EPA agreed to initiate a process to withdraw restrictions on development proposed during the Obama administration. But the agency halted those withdrawal plans last month.

EPA Administrator Scott Pruitt said based on comments the EPA received, that "any mining projects in the region likely pose a risk to the abundant natural resources that exist there."

He said until the full extent of risk is known, "those natural resources and world-class fisheries deserve the utmost protection."

More than one million comments were submitted on the EPA's proposal. It said the "overwhelming majority" opposed lifting the proposed restrictions.

During public hearings in the Bristol Bay region, most people opposed lifting the proposed restrictions, the agency said.

The Pebble partnership has filed a permit application with the U.S. Army Corps of Engineers, which plans to conduct an environmental review.

The settlement agreement stipulates that a decision by the EPA on whether to pursue restrictions or prohibitions on development activity may not be made before May 11, 2021, or until the environmental review is completed, whichever is earlier.

Mike Heatwole, a spokesman for the Pebble partnership, said by email that Pebble is focused on working through the permitting process, which he said will include "a lot of give and take" between Pebble and regulators.

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**AP**

[https://apnews.com/17220efbd9a14ecab0746a40b4a18603/Chicago-gets-\\$1M-in-EPA-grants-to-reduce-diesel-pollution](https://apnews.com/17220efbd9a14ecab0746a40b4a18603/Chicago-gets-$1M-in-EPA-grants-to-reduce-diesel-pollution)

## **Chicago gets \$1M in EPA grants to reduce diesel pollution**

2/15/18

CHICAGO (AP) — Chicago has received more than \$1 million in federal grants to help reduce diesel pollution from city buses and equipment used at O'Hare International Airport.

The Environmental Protection Agency announced the funding for the Chicago Transit Authority and Chicago Department of Aviation on Wednesday. EPA Region 5 Administrator Cathy Stepp says the money "will help people breathe cleaner air."

The transit authority is receiving a \$400,000 grant to replace an older bus with an all-electric one that produces zero emissions. CTA is providing about \$490,000 in matching funds.

The aviation department will use a \$640,000 EPA grant to replace 26 pieces of airport support equipment with all-electric versions. The department will provide \$790,000 for the project.

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### **AP**

<https://apnews.com/167b38546bc042178a8f8e831fb49557/Detroit-nonprofit-gets-grant-to-help-reduce-diesel-emissions>

## **Detroit nonprofit gets grant to help reduce diesel emissions**

2/15/18

DETROIT (AP) — A Detroit nonprofit has been awarded a \$1 million federal grant to help reduce diesel emissions from heavy-duty trucks and city-owned utility equipment.

The Environmental Protection Agency says Southwest Detroit Environmental Vision will use the funds to implement projects with several partners that have committed to accelerate replacement of pre-2007 diesel trucks.

The EPA says targeted older vehicles will be replaced with ones that meet current emissions standards. The projects will cut the amount of nitrogen oxide, soot, hydrocarbons, carbon monoxide and carbon dioxide in the air.

It's part of the EPA's Diesel Emissions Reduction Act program. Project collaborators are providing \$2.5 million in matching funds.

Southwest Detroit Environmental Vision works with residents, community organizations, government agencies, schools, businesses, and industries on environmental issues.

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### **E&E Greenwire**

<https://www.eenews.net/greenwire/stories/1060073993/search?keyword=EPA>

## **'Everybody will feel' Trump cuts, Alaska chief says**

2/15/18

U.S. EPA's top official in the Pacific Northwest and Alaska wants to continue working with communities on the ground to address the effects of climate change, even as the agency scales back its greenhouse gas regulations.

"I've been involved in Arctic issues since at least 16 years ago, and there's no doubt the Arctic is changing," Chris Hladick, the Trump administration's appointee to lead EPA Region 10, said in a wide-ranging interview with KTOO Public Media in the state.

He was previously commissioner of Alaska's Department of Commerce, Community and Economic Development (E&E Daily, Oct. 18, 2017).

Hladick shied away from criticizing the massive EPA budget cuts proposed by the Trump administration. But he said he didn't expect Congress to go along with the cuts.

"If there's a 30 percent cut, I think everybody will feel it. That's a lot of money," Hladick said.

As for one hot-button environmental issue in Alaska — the proposed Pebble mine — Hladick said he spoke to EPA Administrator Scott Pruitt about its potential impacts on commercial fishing.

Pruitt last month made an unexpected move to keep EPA's proposal to slap environmental restrictions on the mine, though Hladick wouldn't say whether their conversation influenced the decision.

"I think you'd have to ask him that," Hladick said (Elizabeth Harball, KTOO Public Media, Feb. 13). — NS

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## **E&E Daily**

<https://www.eenews.net/eedaily/stories/1060073955/search?keyword=EPA>

### **Democrats revive bill to ban 4 chemicals**

By Marc Heller, 2/15/18

Scientists aren't sure exactly how bad neonicotinoid pesticides are for bees — but until they know, Rep. Earl Blumenauer wants the agricultural chemicals banned.

That's the drive behind legislation the Oregon Democrat and Rep. Jim McGovern (D-Mass.) reintroduced yesterday to halt the pesticides' use while U.S. EPA looks into effects on pollinators.

Their legislation, the "Saving America's Pollinators Act," may not go far — similar or identical versions have been introduced in recent years to no avail — but Blumenauer said the effort would put the United States in lockstep with other parts of the world, such as in Europe, that have banned some of the so-called neonics in most situations.

"We want to get in line with what other parts of the civilized world are doing," Blumenauer said at a news conference. "This is something that doesn't need to be partisan."

Some U.S. communities have taken similar measures, such as bans on use of neonicotinoids on municipal property in Eugene, Ore.; Seattle; and Spokane, Wash. Maryland has banned them for consumer use but allows farmers to keep using neonics.

The bill singles out four chemicals — imidacloprid, clothianidin, thiamethoxam and dinotefuran — and says other registered neonics would be suspended, as well.

The ban would remain until U.S. EPA determines "that such insecticide will not cause unreasonable adverse effects on pollinators," based on scientific findings.

Environmental groups and beekeepers at yesterday's news conference said they're sure neonicotinoids are responsible for big declines in colonies, including making bees more susceptible to one known killer, the varroa mite.



"Neonicotinoids are hell on pollinators," said Luke Goembel, vice chairman of the Central Maryland Beekeepers Association.

Studies have been less clear-cut, finding that the chemicals can hurt bees' ability to fly and may lead to declined egg production. Another study, in Germany last year, found that egg production increased in bees exposed to neonicotinoids (Greenwire, June 30, 2017).

Other threats include loss of habitat, especially for wild bees that rely on meadows, researchers say.

Bayer CropScience, which makes neonicotinoids, has said they're safe when used according to label instructions. The chemical is applied in various ways, including the spraying and coating of seeds, which allows sprouting plants to resist bugs.

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### **E&E Greenwire**

<https://www.eenews.net/greenwire/stories/1060073879/search?keyword=EPA>

#### **Group keeps threatened CRA challenge on sideline**

By Ariel Wittenberg, 2/14/18

The Pacific Legal Foundation launched a campaign last year to force federal agencies to submit all proposed guidance documents to Congress for review.

An attorney for the property-rights group even emailed U.S. EPA twice warning that the Trump administration's two-step plan to repeal and replace the 2015 Clean Water Rule was illegal because it would force the agency to rely on 1986 regulations and a 2008 guidance.

"The 2008 guidance was never submitted to Congress for review under the Congressional Review Act, which means that under the Act it cannot take legal effect," PLF senior attorney Tony Francois wrote in an email to EPA Associate Administrator Samantha Dravis and senior adviser Sarah Greenwalt.

But the 1986 regulations and 2008 guidance are now the administration's official policies, with EPA and the Army Corps of Engineers finalizing a suspension of the Clean Water Rule earlier this month. The agencies didn't submit the guidance for congressional review.

So will PLF be seeing the administration in court? Not likely.

Francois said his group won't try to force the administration to submit the 2008 guidance to Congress, but it will continue arguing against the guidance in ongoing Clean Water Act enforcement cases against its clients.

"This is a decision that is up to the administration," he said. "The view we take of it is when this issue comes up in cases that we are litigating for actual clients, we definitely intend to raise it."

EPA declined to comment on the issue. Greenwalt and Dravis never responded to Francois' email about the rule, also known as the Waters of the U.S., or WOTUS, regulation, which defines what wetlands and small waterways are protected by the Clean Water Act.

Francois' argument against EPA and the Army Corps using the guidance springs from the foundation's belief that the government should base Clean Water Act jurisdiction on a 2006 Supreme Court opinion from Justice Antonin Scalia.

In the court's famously fractured 4-1-4 opinion in *Rapanos v. United States*, Scalia was joined in his opinion by the three other conservative justices, while the liberal-leaning justices dissented. Justice Anthony Kennedy agreed with Scalia that Michigan landowner John Rapanos should win the case, but issued a separate opinion on how the federal government should decide which wetlands and waterways are covered by the Clean Water Act.

Scalia wrote that waters must have a "relatively permanent" surface connection to traditionally navigable waters, while Kennedy said waters must have a "significant nexus" to navigable rivers and seas, which could include not just surface connections but also groundwater, biological and chemical ones.

The 2008 guidance recognizes that EPA and the Army Corps can rely on Supreme Court opinions by either Kennedy or Scalia, and WOTUS mostly relies on Kennedy's vision.

In his email to Dravis and Greenwalt, Francois wrote it didn't make sense for EPA to fall back on the 2008 guidance — which allows use of the Kennedy opinion — if the agency was working on a Scalia-based rule, saying both the guidance and WOTUS have "many of the same flaws."

"Since President Trump's WOTUS Executive Order calls for the new WOTUS definition to be based on Justice Scalia's Rapanos opinion instead of Justice Kennedy's, it does not seem to advance the implementation of the Executive Order to use the Kennedy-based 2008 Guidance while developing a new rule, the development of which agency career staff may be inclined to drag out over several years," he wrote in the email obtained by E&E News through a Freedom of Information Act request.

That's where the Congressional Review Act could come in.

Francois' argument: Passed in 1996, the CRA requires agencies to submit final regulations to Congress before they take effect, giving lawmakers the opportunity to reject rules using fast-track procedures. Once a rule is eliminated under the law, agencies are prohibited from issuing a "substantially similar" rule.

So if Congress were to vote on the 2008 guidance, Francois argued, EPA and the Army Corps couldn't rely on Kennedy's opinion in any future rulemaking.

"That may be the only way to tie the hands of a future administration, which may want to revert to a Kennedy-based rule in order to more broadly impose Clean Water Act requirements, as the last administration did," Francois told EPA last year.

In an interview, Francois explained, "If it is an agency statement of general applicability that interprets or applies law, it's a rule. The bottom line is that the 2008 guidance clearly meets the CRA definition of a rule, so if the government wants to rely on it in enforcement, it needs to be submitted before being in effect."

He made that argument in court on behalf of John Duarte, a California farmer accused of violating the Clean Water Act for plowing wetlands. Francois filed a motion asking a judge to prevent federal attorneys from presenting "evidence or argument" based on the 2008 guidance. Duarte and PLF settled the case before a judge could rule on their motion.

Francois' argument is supported by other conservative groups, like the Heritage Foundation and Competitive Enterprise Institute.

Since the groups started pushing their theory last year, lawmakers have asked the Government Accountability Office to rule on whether specific guidance documents should be submitted under the CRA. So far, GAO has said all three documents — including the Eastern Interior Resource Management Plan from the Bureau of Land Management — have to be submitted for review, though GAO spokesman Chuck Young cautioned that the office hasn't issued any decisions "that cover all issues generally."

"Each has to be considered per its own circumstances," he said.

'A stupid way to get rid of a guidance'

Vermont Law School professor Pat Parenteau said he disagrees with Francois.

"Policy statements and guidance just don't qualify under the Congressional Review Act; they don't have any binding legal effect," he said.

Guidance documents, which include policy statements and interpretive rules that do not go through a notice and comment period, he said, haven't traditionally been submitted to Congress under the CRA.

John Cruden, who led the Justice Department's Environment and Natural Resources Division during the Obama administration, said Francois is wrong about how the government used the 2008 guidance.

The document was crafted by the George W. Bush administration in the aftermath of Rapanos in an attempt to translate the justices' opinions into on-the-ground advice for EPA and the Army Corps. Cruden said DOJ never relied on the guidance in prosecuting or enforcing Clean Water Act violations.

"When we went to court, we did not use that internal document but rather court decisions and regulations from 1986 to confirm jurisdiction," he said. He also noted that while the Bush and Obama administrations argued that Kennedy's Rapanos opinion should be the ruling one, both enforced cases using only Scalia standards at times.

While the Trump administration could submit the 2008 guidance for CRA review, Richard Pierce, a professor at George Washington University, said, "It would be a stupid way to get rid of a guidance document."

The EPA or Army Corps chiefs could eliminate guidance they disagree with almost instantly on their own.

"Why would you ever do this? You can literally get rid of guidance you don't like with the stroke of a pen; you just write, 'This is hereby revoked,'" he said. "You don't even have to replace it with anything."

He said Francois' idea of using the CRA to prevent EPA and the Army Corps from relying on a Kennedy-based regulation "is piling one layer of stupidity on another layer of stupidity." He said the law's prohibition of agencies issuing rules "substantially similar" to those rejected by Congress has never been tested in court.

"We don't know what the hell that phrase means," he said. "It could be about which Supreme Court opinion you use, or it could be about the idea of defining 'Waters of the U.S.' generally, or it could be about specific aspects of their proposal."